

## **Title 13**

### **STREETS, SIDEWALKS AND PUBLIC PLACES**

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## **Division I. General Regulations**

### **Chapter 13.04**

#### **OFFICIAL STREET MAP**

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##### **13.04.010 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Board” means the board of adjustment established by this chapter.

“Building” means any building, structure or improvement of any kind or part thereof

which, through erection, construction, reconstruction, addition or alteration in any manner, becomes a part of the realty.

“Officially mapped street” means any street which has been made a part of the official street map according to the provisions of this chapter.

“Official street map” means the official street map of the metropolitan government of Nashville and Davidson County, Tennessee.

“Street” means any public way or part thereof, including but not limited to a boulevard, avenue, highway, road, lane or alley. (Prior code § 38-1-18)

##### **13.04.020 Adoption.**

The streets described on a map entitled “The Official Street Map of The Metropolitan Government of Nashville and Davidson County, Tennessee,” which map is hereby made a part of this chapter, are hereby adopted and approved as the official street map for the metropolitan government. (Prior code § 38-1-19)

##### **13.04.030 Recordation.**

The metropolitan clerk shall have the adopted official street map recorded in the office of the Davidson County Register. (Prior code § 38-1-20)

##### **13.04.040 Amendments—Approval required—Traffic study.**

A. Amendments of the official street map shall be made in the manner required for original adoption. Any proposed addition, change or modification of the official street map which has not been certified by the planning commission shall be submitted to the planning commission for its approval before any decision by the metropolitan council on

the addition, change or modification. The planning commission shall have thirty days after the submission to them within which to send its report to the metropolitan council, unless such time is extended by the metropolitan council. In the event of the planning commission's disapproval, the addition, change or modification shall require the favorable vote of a majority of the entire membership of the metropolitan council before the addition, change or modification becomes a part of the official street map.

B. The chief traffic engineer shall file with the metropolitan council a traffic study on each proposed addition, change or modification of the official map, which study shall include but not be limited to the amount and direction of traffic involved, the impact on traffic flow, and the manner in which such traffic and traffic flow shall be rerouted or accommodated if such amendment is adopted. The foregoing to the contrary notwithstanding, in the event the chief traffic engineer determines that less than one thousand vehicles per day will be affected, the study shall not be required. (Prior code § 38-1-30)

#### **13.04.050 Additions—Prerequisites.**

A. Where the street being designated as an "officially mapped street" is designated by the state or federal government as a state or federal highway, that street shall not be placed on the official street map until the appropriate federal or state agency has certified in writing to the metropolitan council that sufficient funds are available to the metropolitan government for the acquisition of the right-of-way for the proposed street and agreeing to the procedures for the acquisition of such right-of-way as outlined in Section 13.04.100.

B. Before submission of the official street map or an amendment thereto, the director of finance shall certify in writing to the metropolitan planning commission whether

or not sufficient funds are available or whether or not a sufficient revenue authorization has been made to cover the anticipated cost of acquiring the right-of-way for the proposed street.

C. Neither the official street map nor any amendment thereto shall be certified to the metropolitan council by the planning commission unless the director of finance certifies that sufficient funds are available or that a sufficient revenue authorization has been made to cover the anticipated cost of acquiring the right-of-way for the proposed street. (Prior code § 38-1-21)

#### **13.04.060 Property identification required for adoption or amendment.**

The official street map adopted in this chapter or any amendment hereafter adopted shall be sufficiently definite so as to identify the property that may be taken. (Prior code § 38-1-22)

#### **13.04.070 Adoption of map does not establish street.**

The making or certifying of a map by the planning commission or the adoption or amendment of the official street map by the metropolitan council shall not constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes by the metropolitan government. (Prior code § 38-1-23)

#### **13.04.080 Building between mapped street lines prohibited.**

In order to preserve the integrity of the official street map and subject to the provisions of Sections 13.04.090 and 13.04.100, no building shall be constructed on any land located on or between the mapped lines of any street as shown on the official street map. The director

of the department of codes administration or his duly authorized agent shall not issue any building permit in violation of this section. (Prior code § 38-1-24)

#### **13.04.090 Board of adjustment.**

A. There is created a board of adjustment composed of five members, who shall be residents of the metropolitan government area and who shall hold no other public office, either elective or appointive, and who shall serve without compensation. The members of the board shall be appointed by the mayor, with the approval of the metropolitan council. The members of the board of adjustment shall be appointed for terms of five years; except, that the term of those first appointed shall be as follows: One member shall be appointed for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years and one member for a term of five years. When a position on the board becomes vacant, leaving an unexpired term, that vacancy shall be filled in the same manner as in the case of the original appointments. The person appointed to fill the vacancy shall then serve the remainder of the unexpired term. After a public hearing and upon written charges, the mayor and the metropolitan council may remove any member of the board for just cause.

B. When not inconsistent with this chapter, the board shall adopt rules for its organization and procedure, the selection of its officers and the keeping of a public record. Before adoption, all rules shall be submitted to the director of the legal department of the metropolitan government for his approval as to legality. After the rules have been approved by the director of law and adopted by the board, the board shall immediately cause the rules to be filed with the metropolitan clerk.

C. The board shall provide for the establishment of regular meetings to be held at

least once a month, unless there is no business pending before the board, and for the calling of special meetings.

D. The metropolitan planning commission, under the direction of its executive director, shall provide the staff necessary to serve the board in the conduct of its business. The cost of this staff and other necessary services shall be included in the operating budget of the metropolitan planning commission. (Prior code § 38-1-25)

#### **13.04.100 Building restrictions—Relief from hardship procedure.**

A. The owner of any land located in whole or in part within the boundary of an officially mapped street, claiming a hardship by reason of the provisions of this chapter, may apply to the board of adjustment requesting relief from the hardship.

1. Where the relief requested involves the issuance of a building permit, the application to the board shall be in writing and shall contain the following:

a. A clear statement of the hardship and the relief requested;

b. A site plan showing the size and location of the property and the improvements proposed;

c. The estimated cost of the improvements proposed. 2. In all other cases, the application shall comply with only paragraph (a) above.

B. Before taking any action on an application, the board shall hold a public hearing, fifteen days prior notice of the time and place of which shall be given to the applicant by certified mail at an address specified in the application and to other interested persons by one publication in one newspaper of general circulation at least fifteen days prior to this hearing. Notice of the public hearing shall be given by mail to the mayor, the director of public works, the director of public property,

the director of finance, the chairman of the public works committee of the metropolitan council and the councilman of the councilmanic district within which the property upon which the application is made is located. The state highway commissioner shall be notified by mail of those matters involving state or federal highways.

C. At the hearing, the board of adjustment shall provide for the taking of evidence either in oral or written form. The board may consider facts not presented by the parties, but when these facts are considered, they must be clearly identified as such, and the party adversely affected shall be given an adequate notice and opportunity to rebut those facts.

D. The board of adjustment shall render its decision within thirty days from the date of the hearing unless an extension of time is agreed to by the applicant. In its decision, the board shall state the facts upon which the decision is based, and, at the time the decision is rendered, the decision shall be entered on and made a part of the board's public record.

E. A majority of the authorized membership of the board of adjustment shall constitute a quorum and the concurrence of a majority of the authorized members shall be required before any action can be taken by the board. In addition to the five permanent members of the board, the mayor, with the approval of the metropolitan council, may appoint one alternate member who shall serve as a regular member only when it is impossible to obtain a quorum without the presence of the alternate member.

F. In making its decision, the board shall either grant relief, modify the application and grant relief for the modified application or deny relief.

G. Before any relief can be granted, the board of adjustment must find the following: That the applicant's property, in its existing condition, will not yield a reasonable return on its value to the owner or that the ap-

plicant has a specific and unique hardship which does not generally prevail throughout the surrounding area, or both.

H. In addition to the above, the board must also find that the granting of the relief would not materially increase the cost to the public of opening or improving the mapped street involved.

I. As a condition to the granting of relief, the board may modify the application, except for applications to purchase. The modifications imposed shall result in a minimum easing of the requirements of this chapter, and yield to the owner a fair and reasonable return on the value of his property. In either granting relief or modifying the application, the board shall endeavor at all times to preserve the integrity of the official street map.

J. In the event the decision of the board of adjustment is adverse to the owner of the property in denying a building permit or favorable to the owner on his application to purchase, the owner may, within thirty days after the decision of the board, notify in writing, the director of public works and the director of public property that he desires to sell his property. Notification in writing of the board's action shall be given the state highway commissioner in the event the property is mapped within state or federal highways. Upon the receipt of the written notification, the appropriate governmental official shall immediately endeavor to complete the acquisition proceedings of the subject properties involved in the application. In the event the governmental authorities are unsuccessful in acquiring the property by negotiation, evidence of which shall be by registered letter from the owner to such appropriate governmental authority stating that such owner will not undertake further negotiations, then such governmental authority shall initiate condemnation proceedings within ninety days from the receipt of such registered letter. (Prior code § 38-1-26)

#### **13.04.110 Building permit—Issuance when—Expiration.**

If the relief granted by the board of adjustment allows the department of codes administration to issue a building permit, a notification of such action shall be transmitted to the department of codes administration and the permit shall immediately be issued. However, unless the applicant proceeds to obtain a permit from the department of codes administration within thirty days from the date of the decision of the board, and begins construction within twelve months from the date of the issuance of the permit, the applicant shall not be entitled to proceed under the permit without filing a new application with the board as hereinafter provided. (Prior code § 38-1-27)

#### **13.04.120 Judicial review of decisions of board of adjustment.**

Judicial review of any decision of the board of adjustment shall be available under the provisions of Section 27-9-101 et seq. of the Tennessee Code Annotated. (Ord. 90-1339 § 1 (38-1), 1990: prior code § 38-1-28)

#### **13.04.130 Zoning regulations not affected.**

This chapter is intended to be subject to and does not, in any way, repeal, modify or amend any of the zoning laws now in effect within the metropolitan government area. (Prior code § 38-1-31)

#### **13.04.140 Liberal construction.**

It is the intention of the metropolitan council that this chapter be remedial, and, therefore, should be liberally construed. (Prior code § 38-1-32)

#### **13.04.150 Violations.**

No owner, lessee, tenant or the agent of any owner, lessee, tenant or any other person in control of any land located on or between the map lines of any street as shown on the official street map herein adopted, or as subsequently amended, shall erect or construct or cause to have constructed or erected, upon his land, any building in violation of any provision of this chapter. Each day during which the violation continues shall be deemed a separate offense. The director of law, in the name of the metropolitan government, or the state commissioner of highways, on behalf of the state, in matters involving state and federal highways, or any aggrieved, affected or interested person in his own name, may seek injunctive or other appropriate relief to end the violation. Under no circumstances, however, shall compensation by purchase or by the exercise of eminent domain be made for any buildings built in violation of this chapter. (Prior code § 38-1-29)

### **Chapter 13.08**

## **STREETS, ALLEYS AND SIDEWALKS**

#### **Sections:**

- 13.08.010 Official street and alley acceptance and maintenance map—Adoption.**
- 13.08.015 Street name changes—Procedure.**
- 13.08.020 Naming of private streets and roads.**
- 13.08.030 Private installations in, on, over or under public way—Regulations.**
- 13.08.040 Offering merchandise for sale on or near public property prohibited—Exceptions.**

**13.08.050     Obstructing visibility at intersections, driveways or rights-of-way.**

**13.08.060     Street cleaning—Restricted hours of operation—Exceptions.**

**13.08.070     Transport of hazardous materials on public streets prohibited—Penalty.**

**13.08.010     Official street and alley acceptance and maintenance map—Adoption.**

A.     There is created and established an official street and alley acceptance and maintenance map for the metropolitan government, which map is composed of a series of atlas sheets base maps showing thereon, by words, lines or symbols, the dedicated streets and alleys which are accepted for maintenance or abandoned for public maintenance by the metropolitan government. Such map, on file in the office of the department of public works, is considered as being attached hereto and made a part hereof as though copied herein. The official street and alley acceptance and maintenance map herein established may be amended from time to time by ordinance of the metropolitan council setting out additions, deletions or any other amendments to such maps.

B.     The official street and alley acceptance and maintenance map shall be maintained in the office of the department of public works. The director of public works is authorized to note thereon any amendatory ordinance enacted by the metropolitan council.

C.     Any person, other than an official or employee of the metropolitan government acting in their official capacity, making an application or request for an amendment to the official street and alley acceptance and maintenance map shall, in addition to filing the appropriate application or request with the department of public works, pay to the metropoli-

tan government a fee of one hundred dollars to cover the cost of processing such application or request. (Ord. 93-505 § 1, 1993; prior code § 38-1-1)

**13.08.015     Street name changes—Procedure.**

The following procedures and requirements shall apply to all street name changes proposed after the effective date of the ordinance codified in this section:

A.     Before voting on an ordinance proposing a street name change, the metropolitan council shall forward the ordinance to the metropolitan planning commission and the emergency communications district board for its consideration. If the ordinance proposes to change a street name to that of a particular individual, the ordinance must be accompanied by a biographical sketch of that individual.

B.     Within ten days of receipt of the proposed ordinance, the planning commission shall notify all property owners on the street of the proposed name change, and shall indicate a period of time during which property owners may provide written comments in support of or in opposition to the proposed name change.

C.     After consideration of the petition, the planning commission and emergency communications district board will provide the council with a recommendation approving or disapproving the proposed change, and shall also forward all property owners' responses to the council for its consideration at least one week prior to the third reading of the ordinance proposing the street name change.

D.     In considering a petition for a proposed street name change, the council shall take into consideration the recommendation of the planning commission and emergency communications district board. Further, the council shall only approve street name changes which meet the following requirements:

1. There will be no honorary street signs;

2. No street shall be named for a living person, and a waiting period of two years shall pass before naming a street after a person who is deceased;

3. Name changes must extend the entire length of a street;

4. There shall be no name changes for the purpose of promoting a private business. (Amdt. 2 to Ord. 93-638, 5/18/93; Amdt. 1 to Ord. 93-638, 5/18/93; Ord. 93-638 § 2, 1993)

### **13.08.020 Naming of private streets and roads.**

A. The metropolitan county council deems that it may be necessary to name private streets and roads in order to provide better public services, particularly emergency services, to the residents of the metropolitan Nashville area.

B. The term “private streets and roads” is defined as including any street, road or lane which has not been accepted by the metropolitan government for maintenance, whether or not it is within a public right-of-way, but shall exclude private driveways. Private roads may be named by the metropolitan county council and marked as such by the metropolitan government.

C. Any such naming shall be referred to the metropolitan planning commission for review and recommendation. (Prior code § 38-1-3)

### **13.08.030 Private installations in, on, over or under public way—Regulations.**

A. No person, firm or entity shall construct, install, operate and/or maintain an encroachment in, on, over, or under any street, road, alley, sidewalk or other public way except when permitted by the metropolitan gov-

ernment. Unless specifically permitted under other sections of this code, the metropolitan county council may by ordinance grant encroachments, permits or privileges to construct, install, operate and/or maintain an encroachment in, on, over, or under any street, road, alley, sidewalk or other public way.

B. Any person, firm or entity requesting an encroachment, permit or privilege as provided herein shall pay to the metropolitan government a fee in the amount of one hundred dollars upon making such request.

C. The manner of constructing, installing, operating and maintaining such encroachment shall be subject to the requirements, direction and approval of the director of public works and further the person, firm or entity requesting such encroachment, permit or privilege shall provide a liability insurance policy in such amount as directed by the metropolitan attorney and in the form as approved by the metropolitan attorney, to save the metropolitan government harmless from all claims for damages that may result to persons or property by reason of construction, operation or maintenance of such installation of any encroachment. (Ord. 2002-983 § 1, 2002: Prior code § 38-1-2)

### **13.08.040 Offering merchandise for sale on or near public property prohibited—Exceptions.**

A. No person shall stop, stand or park any wagon, pushcart, automobile, truck or other vehicle, or erect any temporary stands, signs or otherwise, upon or within any public property of the metropolitan government for the purpose of selling or offering for sale any goods, food, wares, merchandise or products of any kind, nor shall any person sell or offer for sale, upon or within any public property of the metropolitan government, any goods, food, wares, merchandise or products of any kind. The prohibitions contained in this subsection



shall not affect or apply to any agreement with, or the written approval of, the respective department, board, agency, officer or other person having control or custody of that particular property.

B. 1. It is unlawful for any person to obstruct any public way, including alleys, roadways, sidewalks and streets as defined by Sections 12.04.010, 12.04.315, 12.04.335, and 12.04.375 of the Metropolitan Code, except as authorized by law. This subsection shall not apply to:

a. Any street vendor operating with a proper license or permit issued by the county clerk under subsections (B)(3) and (4) of this section that satisfies this section;

b. Vendors exclusively engaged in the sale of newspapers, magazines, periodicals or other such written items provided that the requirements for clearance at intersections set forth at Section 13.12.190 are satisfied and who do not utilize a cart, wagon, or any other mobile device or vehicle to sell such written materials;

c. Solicitation of donations by a nonprofit organization or the sale of merchandise by a nonprofit organization which constitutes, carries or makes a religious, political, educational, philosophical or ideological message or statement related to the purpose of the nonprofit organization;

d. Produce sellers licensed pursuant to the provisions of Chapter 6.104;

e. Persons to whom a privilege has been extended under the provisions of Section 13.36.020 allowing them to come upon or take any position upon the area of the curb market or the auxiliary curb market.

f. In conjunction with, and as part of, an organized program of conventions, professional meetings, seminars and other similar events, any individual distributing free samples of goods from his or her person or vendors, merchants, exhibitors and salesmen who ex-

hibit, demonstrate or solicit orders for goods at any such event.

g. These exceptions shall operate to create a privilege and not a franchise or license. In the event the exceptions stated in this subsection are repealed or otherwise revoked, the provisions of this section shall then apply and any wagons, pushcarts, stands, signs, displays and any news and literature distribution racks no longer excepted shall be removed at the owner's expense.

2. Definitions. Within the meaning of this section, these terms shall be construed as follows:

a. "Commission" means the metropolitan traffic and parking commission.

b. "To obstruct" means to so occupy the public ways so that the free use and enjoyment thereof by the public is in any way interrupted or interfered with, or such that the free ingress and egress to or from any building fronting on any public thoroughfare is impaired.

c. "Public way" means all areas legally open to public use and used and/or intended for vehicular or pedestrian traffic, including public streets, alleys, sidewalks, and roadways, but excluding any public property of the metropolitan government.

d. "Public property" means all property, real and personal, belonging to the metropolitan government, excluding that which is used and/or intended for use by vehicular or pedestrian traffic and defined herein as a public way.

e. "Street vendor" or "vendor" means any individual, including an employee or agent of a group of individuals, partnership, or corporation, who sells, or offers to sell services, food, beverages, goods, or merchandise on any public way whether such activity involves the sale of such items from the vendor's person or by use of a stand.

f. "License" or "permit" means the form issued by the county clerk evidencing

that the vendor is allowed to sell or offer to sell goods and services on the public way.

g. “Stand” means any table, tarp, display, bench, booth, rack, handcart, pushcart, wagon or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, and is used for the display, storage, or transportation of food, beverages, goods or merchandise on any public way.

h. “Special event” means any occasion officially recognized by the mayor’s office of film and special events including, but not limited to fairs, shows, exhibitions, municipality-wide celebrations, festivals and other similar events, within a specifically defined area of the municipality for a specified period of time.

i. “Business” or “property owner” means any individual, including an employee or agent of a group of individuals, partnership, or corporation who is a tenant in or who owns property abutting the public way.

j. “Pedestrian” means a person who is walking or otherwise traveling on the public way.

k. “Sign” or “sandwich board” means any portable sign used to convey information of a commercial nature.

l. “Street performance” means any theatrical, musical, visual, or other presentation for entertainment purposes on the public way. “Street performer” means any person or group of persons who conducts a street performance.

m. Distance. All measured distances and distance requirements addressed in this regulation shall be distances measured in a straight line from the nearest edge of the vendor’s stand or sign to the nearest edge of the object from which the sign or stand is to be distant.

3. It is unlawful for vendors of goods or services not meeting the exception in subsection (B)(1)(b)-(f) of this section to sell,

display, or offer for sale any food, beverage, goods, or merchandise on a public way before acquiring a street vendor’s permit from the county clerk. To acquire a permit, a vendor shall apply for a permit from the county clerk and must provide all information, on a form supplied by the county clerk, necessary to determine whether a particular permit may be issued.

a. The application must include, but is not limited to, the vendor’s full name, home address, permanent business address (if any), telephone number, driver’s license number, three copies of a current full-face photograph of vendor, three current full-face photographs of each of vendor’s employees, proof of identity for each vendor and/or employee and proof that any other required permits or authorizations have been obtained.

b. The application shall also state a brief description of the nature and character of the food, beverages, goods or services to be sold and shall be accompanied by a photograph of the vendor’s stand(s).

c. If the vendor is employed by or is an agent of another, the application shall state the name and business address of the principal or hiring person, firm, association, organization, company or corporation.

d. Vendors with multiple stands, displays, carts, wagons or any other means by which to offer goods or services to the public must procure a permit for each space occupied.

e. Vendors not holding a general vending permit who wish to offer goods and services to the public in conjunction with any special event shall apply for a temporary vending permit.

f. Any vendor engaged in the sale of food or beverages must, in addition to the above requirements, comply with the following:

i. Vendors of food and beverages shall be required to maintain a health permit from the local health department in addition to

the general vending permit. Upon application for the general vending permit, vendors of food and beverages shall have their applications forwarded to the health department for approval and shall submit their equipment for inspection.

ii. Upon approval by the local health department, the food and beverage vendor shall be subject to inspection by local health department officials as provided for by law at periodic intervals.

g. The application must include a provision indemnifying and holding harmless the metropolitan government from any and all claims arising out of the vendor's operation. Applicants must provide, as part of the application, a copy of a certificate of liability insurance with a minimum coverage of one million dollars. The policy must name the metropolitan government of Nashville and Davidson County as additionally insured. Certificate must accompany the application.

h. Any intentional misrepresentation on the application by a vendor shall constitute grounds for denial, suspension or revocation of a permit.

4. At the time of application, a vendor shall pay an annual permit fee of one hundred dollars. Vendors seeking a temporary vending permit shall pay a fee of twenty-five dollars. No vendor shall be permitted to obtain any temporary permit(s) authorizing vending in excess of ten days, cumulatively, during any twelve month period. Any vendor who wishes to conduct operations for more than ten days per year must obtain a general vending permit.

5. Application Processing.

a. Upon receipt of an application, the county clerk shall:

i. Ensure the application is complete. Applications which are not complete shall be denied and returned to the applicant.

ii. Ensure that all fees have been properly paid and that a certificate of insurance has been provided. Applications for which all

applicable fees have not been paid or which do not contain a certificate of insurance shall be denied.

iii. Determine whether the applicant has been convicted of violation of this section during the twelve month period preceding the application. If the applicant has been convicted of three or more violations of this section during the preceding twelve months, the application shall be denied.

iv. Ensure that vendors offering foods or beverages have obtained all necessary licenses, permits, and/or inspections in accordance with subsection (B)(3)(f) of this section. If the required permits, licenses and/or inspections have not been obtained, the application shall be denied.

v. Take reasonable steps to verify the truthfulness of the information provided on the application. Applications found to contain false information shall be denied.

vi. If the application is for a temporary permit, determine the number of previous temporary permits obtained during the previous twelve months. No more than ten temporary permits may be issued during any twelve-month period. Applications requesting temporary permits in excess of this number shall be denied.

b. If the application meets the requirements specified in subsection (B)(5)(a) of this section the county clerk shall issue the permit and I.D. badges for the permittee and any employees identified in the application. A permit holder may apply for additional I.D. badges if needed. The I.D. badge shall include a picture of the employee, employee name and the permit number.

c. The county clerk will notify the vendor in writing of the decision to issue or deny the permit and, if denied, the reason for denial. The County Clerk will provide the notification as soon as is practicable, but in no case shall notification occur later than thirty (30) days after the filing of a properly completed

application. In the event an application has not been granted or denied within thirty days from receipt for filing, an interim permit, renewable at ten day intervals, shall be issued to the applicant. Additional interim permits shall issue until such time as the application is granted or denied. The permit shall be valid for one year after issuance and shall be renewable upon expiration in each subsequent year so long as the vendor remains in good standing and has been convicted for no more than three violations of this section in the previous twelve-month period. In the event that a vendor is denied a permit, either upon application or at renewal, the vendor shall have an opportunity to appeal the denial as described in subsection four of this section.

6. Restrictions. The granting of a permit confers a privilege, not a franchise or license. A permit does not guarantee a particular space or that any space or particular space will be available.

a. The sale of goods or services by street vendors is limited to the CC and CF zoned districts.

b. Nothing herein shall exempt any vendor from the provisions of Section 12.52.130 regarding sales to persons in vehicles from a street or sidewalk.

c. Each street vendor must prominently display the permit, in addition to any business tax license the vendor may be required to possess, and if a vendor of food or beverage, the health permit must also be prominently displayed. I.D. badges issued by the county clerk are to be in the possession of vendors and their employees at all times and are not transferable. Vending operations in violation of this provision shall be ordered removed until the deficiency is corrected.

d. Vending at the Nashville Convention Center, the Municipal Auditorium, the Nashville Arena or any other facility identified in Chapter 6.32 of the Metropolitan Code shall

be in compliance with the more particular regulations set forth in Chapter 6.32.

e. Street vendors operating on the public way agree to indemnify and hold harmless the metropolitan government from any cause of action arising from the vendor's operation.

f. Street vendors operating within the CC and CF districts in the area of Demonbreun Street are subject to additional restrictions that must be located only in marked spaces, a map of which is available from the county clerk. These spaces shall be occupied on an unreserved and first come basis. Such spaces shall not be assigned or reserved in any manner. Further, street vendors shall not be permitted to operate within the CC and CF districts on Second Avenue North between Broadway and Church Street, and on Commerce Street between Second Avenue North and Third Avenue North.

g. The owner of any wheeled and mobile vehicles, temporary stands, signs or displays or racks shall gain no right to compensation by virtue of being forced to move to allow access to utilities, regardless of the length of time incurred thereby. Nothing in this section shall be construed to prohibit or otherwise affect the practice of vending on any public roadway, street or sidewalks during the course of any special event as defined in subsection (B)(2)(h) of this section for which the metropolitan government has given its official written permission to close or otherwise alter the normal, everyday use of any public roadway, street or sidewalk for a specified, limited period of time.

h. Permits are nontransferable.

i. The sale of fresh produce shall be in compliance with the more particular regulations set forth in Chapter 6.104.

j. The operation of the curb market and auxiliary curb market shall be in compliance with the more particular regulations set

forth in Chapter 13.36 of the Metropolitan Code.

k. The commission shall have the authority to publish and enforce such other regulations related to vending, street performers, and other temporary sidewalk encroachments as shall be necessary to effectuate this section and to ensure the free flow of pedestrian and vehicular traffic and to ensure the safety of the public.

C. Suspension, Revocation or Denial of Permits.

1. Any permit issued under this section may be suspended or revoked by the commission for any of the following reasons:

a. Fraud or misrepresentation in the application for the permit; or,  
b. Fraud or misrepresentation in the course of conducting the business of vending; or,

c. Conducting the business of the vending contrary to the conditions of the permit and/or these regulations; or,

d. Conducting the business of vending in such a manner as to create a public nuisance or to constitute a danger to the public health, safety or welfare; or,

e. Cancellation of health department authorization for food or beverage vendors.

2. The commission shall consider the following factors in determining whether a permit should be suspended or revoked:

a. The number of citations for violation of this section previously received by the vendor; and

b. The number of previous suspensions and/or revocations imposed upon the vendor; and

c. The number of occasions for which the vendor's permit was subject to suspension or revocation and was not suspended or revoked; and

d. The seriousness of the violation or misrepresentation and the danger to the

health and/or safety of the public presented by the vendor's misrepresentation, noncompliance and/or misconduct; and

e. Whether or not the condition subjecting the vendor to suspension or revocation is of a nature that has been or can be corrected.

3. Upon suspension, revocation or denial of the issuance of a permit, the commission shall deliver written notice to the permit holder or applicant stating the action taken and the reasons supporting such action, and the right to reconsideration of that decision as set forth below. The written notice shall be delivered to the permit holder's or applicant's place of business or last known address. Placement of such notice in the U.S. mail shall constitute delivery. A permit which has been suspended shall remain suspended until such time as the condition causing the suspension has been corrected to the satisfaction of the commission. A permit which has been revoked shall remain revoked for one year following the date of revocation. No vendor whose permit has been suspended or revoked may apply for a new permit during the period of suspension or revocation.

4. Any permit holder or applicant whose permit is suspended or revoked or whose application for a permit is denied may within fifteen days of the date of that action notify the commission that the permit holder or applicant desires reconsideration of that decision. A hearing of the request shall be scheduled for the next regular meeting of the commission. The suspension or revocation shall remain in effect pending the hearing. At the hearing, the permit holder or applicant will be afforded an opportunity to be heard and to present facts and witnesses on his own behalf. The permit holder shall not be entitled to an adversarial hearing or to examine any witness except those the permit holder may present on his or her own behalf.

D. Renewals. Permits may be renewed, provided an application for renewal of the permit and the required fee are received by the county clerk no later than the date of expiration of the existing permit and provided that the vendor has no more than three violations of this regulation within any twelve-month period. A vendor whose permit has been revoked may submit an application upon the expiration of the revocation. Applications received after that date shall be processed as new applications. The commission shall review each renewal application to ensure that the vendor is in full compliance with the provisions of this regulation. If the commission determines that the vendor has complied with the above requirements, the commission will renew the permit for one year.

E. Penalties.

1. Any person who offers merchandise for sale in violation of this regulation or who violates any other provision of this regulation shall be penalized as follows:

**Penalties**

First offense	\$250
Second offense (within one (1) year of the first offense)	350
Third offense (within one (1) year of the first offense)	500
Fourth offense and all subsequent offense 500 (regardless of the time period since the third or last offense)	

All penalties paid pursuant to this section will be deposited into the general fund of the metropolitan government.

2. The permit of any person who offers merchandise for sale in violation of the regulation or who violates any other provision

of this regulation may be suspended. The permit of any person who seriously endangers the health and/or safety of the public by misrepresentation or violation of this regulation or who is convicted of three or more violations of this regulation during any twelve-month period shall be revoked. (Ord. BL2003-38 § 1, 2004; Ord. 99-1575 § 1, 1999; Amdts. 1 and 2 with Ord. 98-1191, § 1 1998)

**13.08.050 Obstructing visibility at intersections, driveways or rights-of-way.**

No person shall place or cause to be placed or maintained, either temporarily or permanently, any sign, card, poster, pennant, banner, bush, tree, hedge or other obstruction:

A. On private property within twenty-five feet of any street intersection so as to interfere with traffic visibility at the intersection.

B. On private property in such a manner as to interfere with traffic visibility of any driver using an authorized driveway or alley.

C. Within the right-of-way of any street within the area of the metropolitan government. (Prior code § 38-1-4)

**13.08.060 Street cleaning—  
Restricted hours of operation—  
Exceptions.**

A. No person shall operate any mechanical device to clean or sweep streets or other paved areas within three hundred feet of any building or structure used for residential purposes between the hours of eleven p.m. and seven a.m.

B. Provided however, the prohibition of such activity shall not be applicable:

1. To the CC and CF zone districts of metropolitan government; and

2. When specifically permitted by the director of the department of public works. (Prior code § 38-1-4.2)

**13.08.070 Transport of hazardous materials on public streets prohibited—Penalty.**

A. For the purpose of this section, the following terms shall be defined as follows:

“Hazardous materials” means any radioactive material in a solid or liquid state which, if exposed, would endanger the health or safety of humans or animals. Radioactive material used for medical purposes shall not be included in this definition. Further, radioactive materials used in industrial instrumentations in quantities as defined as Type A in Title 49 CFR, Paragraph 173.389, are not included in the definition of hazardous materials. Further, radioactive materials used for educational or scientific research in an amount not to exceed one hundred curies shall not be included in this definition.

“Public street or roads” means any dedicated and accepted street, alley or thoroughfare, both improved and unimproved, exclusive of state and federal highways.

“Vehicle” means any truck, automobile, motorcycle or trailer used to transport hazardous materials.

B. It is unlawful for any vehicle transporting hazardous materials to drive upon any street, alley or thoroughfare within the area of metropolitan government.

C. Violation of this section shall be punishable by a fine of fifty dollars. (Prior code § 38-1-4.1)

**Chapter 13.10**

**ACCEPTANCE OF PRIVATE ROADS**

**Sections:**

- 13.10.010 Criteria for accepting private roads.**
- 13.10.020 Appropriation of public funds prior to road acceptance.**
- 13.10.030 Findings by the metropolitan council prior to road acceptance.**

**13.10.010 Criteria for accepting private roads.**

From the effective date of the ordinance codified in this chapter, privately owned roads may be accepted by ordinance only if the director of the department of public works certifies that such roads satisfy the following criteria:

A. An adequate right-of-way, minimum width of fifteen meters (fifty feet), is properly dedicated and recorded by plat to the metropolitan government, free of all encumbrances;

B. A level roadway pavement course, constructed of at least one hundred fifty mm (six inches) of compacted, stone base and seven meters (twenty-two feet) in width, must be in place and in good condition;

C. Adequate drainage facilities in place to maintain safe vehicular travel conditions;

D. As-built plans certified as to location by a registered land surveyor and as to design and construction by a professional engineer must be submitted and approved by the department of public works prior to acceptance of the road;

E. The road must be a minimum of one hundred eighty-two meters (six hundred feet) in length;

F. The road must serve a minimum of six, and a maximum of twenty residences; and all such residences must be single-family homes or duplexes;

G. The road must meet design standards for “local rural roads” specified in the edition of the “Policy on Geometric Design of Highways and Streets” of the American Association of State Highway and Transportation Officials current as of the date of acceptance of the road by the metropolitan government;

H. The road must have one, and only one, terminus on an existing public road as of the date of acceptance;

I. The road must be in existence and its location must be on file in the office of the director of public works as of the effective date of the ordinance codified in this chapter;

J. Development of property adjacent to roads accepted pursuant to this section beyond the limits specified in subsection F of this section without the approval of the director of the department of public works is prohibited. Approval shall be contingent upon a finding by the director that such further development is consistent with the health, safety and welfare of the citizens of Davidson County and consistent with acceptable engineering standards of practice;

K. No public or private road may be connected to a road accepted pursuant to this chapter without the approval of the director of the department of public works. Approval shall be contingent upon a finding by the director that such connection is consistent with the health, safety and welfare of the citizens of Davidson County and consistent with acceptable engineering standards of practice. (Ord. 98-1120 § 1 (part), 1998)

### **13.10.020 Appropriation of public funds prior to road acceptance.**

No private road may be accepted as a public road by the metropolitan government

until funds adequate for its maintenance, and for placement of appropriate signage, shall have been appropriated. (Ord. 98-1120 § 1 (part), 1998)

### **13.10.030 Findings by the metropolitan council prior to road acceptance.**

Satisfaction of the criteria herein established shall not create a right to have a private road accepted as a public road by the metropolitan government. Acceptance shall require an affirmative finding by the metropolitan council that (1) it is in the best interest of the metropolitan government to accept the road and (2) that the requirements of Section 13.10.010(A) through (K) of this chapter have been satisfied. The criteria set forth in Section 13.10.010 do not constitute a design standard for new roads and do not replace existing department of public works road standards. (Ord. 98-1120 § 1 (part), 1998)

## **Chapter 13.12**

### **DRIVEWAYS**

#### **Sections:**

- |                  |   |
|------------------|---|
| <b>13.12.010</b> | <b>Driveway defined.</b>                                      |
| <b>13.12.020</b> | <b>Construction—Regulations.</b>                              |
| <b>13.12.030</b> | <b>Review of driveway application—Duty of chief engineer.</b> |
| <b>13.12.040</b> | <b>Duty of property owner.</b>                                |
| <b>13.12.050</b> | <b>Construction—Authorization required.</b>                   |
| <b>13.12.060</b> | <b>Authorization—Application.</b>                             |
| <b>13.12.070</b> | <b>Authorization—Expiration.</b>                              |
| <b>13.12.080</b> | <b>Applications—Appeals.</b>                                  |
| <b>13.12.090</b> | <b>Construction costs—Owner responsibility.</b>               |
| <b>13.12.100</b> | <b>Location.</b>  |



- 13.12.110**     **Dimension and location requirements.**
- 13.12.120**     **Sight distance requirements.**
- 13.12.130**     **Connection with through lane—Curve radius.**
- 13.12.140**     **Parking lot size—Requirements.**
- 13.12.150**     **Lot requirements for off-street loading docks.**
- 13.12.160**     **Deviations.**
- 13.12.170**     **Abandoned driveways.**
- 13.12.180**     **Nonconforming driveways—Notice to remove—Failure to comply.**
- 13.12.190**     **Sight obstruction prohibited when—Notice to remove—Failure to comply.**

**13.12.010     Driveway defined.**

The term “driveway,” as used in this chapter, means any portion of the normal sidewalk area, including gras plot, curb, gutter and sidewalks, of the streets, roadways and alleys of the metropolitan government intended for use by vehicles as a means of ingress and egress between public right-of-way and abutting property. (Prior code § 27-1-190)

**13.12.020     Construction—Regulations.**

Construction of all driveways shall be as required by current regulation, specifications and drawings of the division of engineering, department of public works, and to the lines and grades furnished by the engineering division. Any work performed prior to furnishing of lines and grades or not meeting specifications and regulations shall be removed or reworked by and at the expense of the person responsible for the work. (Prior code § 27-1-204)

**13.12.030     Review of driveway application—Duty of chief engineer.**

It shall be the duty of the department of public works to give due consideration to the convenience, safety and requisite movement of pedestrian and vehicular traffic on the streets and alleys when reviewing a driveway application. (Ord. 93-575 § 4(u), 1993; prior code § 27-1-192)

**13.12.040     Duty of property owner.**

It shall be the duty of all persons owning property abutting on the streets in the metropolitan government area who make provision for vehicular access to and from streets and alleys and private properties, to give due consideration to the convenience, safety and requisite movement of pedestrian and vehicular traffic on the streets and alleys. (Prior code § 27-1-191)

**13.12.050     Construction—Authorization required.**

Authorization for driveway construction shall be secured from the traffic and parking commission and the department of public works prior to the beginning of construction, such as the cutting of any grass plot, gutter or sidewalk, for the purpose of construction of any driveway. (Prior code § 27-1-194)

**13.12.060     Authorization—Application.**

A.     Applications for authorization of construction, reconstruction or major repair of driveways shall be made on forms prescribed by the traffic and parking commission and the department of public works. Applications shall be signed by the property owner or lessee and contractor, if any, and shall be accompanied by a clear drawing or blueprints, in triplicate, showing the exact location and di-

mensions of the driveway with reference to the property to be served, and a brief explanation of proposed usage of property and shall include property lines, rights-of-way, nearest intersecting streets and alleys, distance from right-of-way lines to gasoline pumps, structures or other improvements on the property, proposed treatment of public right-of-way adjacent to the driveway, utility poles, fire hydrants, traffic-control devices, parking meters and bus stops near the proposed driveway.

B. Applications for driveways shall be filed at the department of public works simultaneously with filing of application for building permits for all properties where new buildings or reconstruction of existing buildings or other improvements are contemplated. (Prior code § 27-1-195)

#### **13.12.070 Authorization—Expiration.**

Driveway authorizations are valid for a period of one year from date of approval. Actual construction must begin before expiration of approval. No notice of expiration will be issued, and authorizations will automatically terminate unless renewal is authorized in writing by the traffic and parking commission and the department of public works. (Prior code § 27-1-196)

#### **13.12.080 Applications—Appeals.**

A. All appeals for driveway applications will be made to the traffic and parking commission.

B. Appeals will be made only after driveway application has been denied by the department of public works. (Ord. 93-575 § 4(v), 1993; prior code § 27-1-193)

#### **13.12.090 Construction costs—Owner responsibility.**

All costs of driveway construction or major driveway repair shall be borne by the owner or lessee of the property to be served. (Prior code § 27-1-197)

#### **13.12.100 Location.**

Driveways shall be so located that vehicles entering or leaving the establishment will not interfere with the free movement of traffic or create a hazard on the highway. Where feasible, they shall be located where there are no sharp curves and steep grades and where sight distance is adequate for safe traffic operation. Driveways should not be located within intersections, rotaries and interchanges or on highways, immediately approaching them. They shall be so located that they will not interfere with the placement of signs, signals or other devices that affect traffic operation. (Prior code § 27-1-200)

#### **13.12.110 Dimension and location requirements.**

A. Driveways for single-family residential use, as designated in the zoning ordinances, shall be not less than twelve feet nor more than twenty-two feet in width.

B. Driveways for other than single-family residential use as designated in the zoning ordinances, shall be not less than fifteen feet nor more than thirty-five feet in width. The total width of driveways shall not exceed forty per cent of the property length in which the driveways shall be located.

C. The width of driveways shall be measured parallel to the street at the property line. The minimum permissible distance between driveways shall be twenty-five feet.

D. Driveways on corner lots shall be constructed at least fifteen feet from the intersection of the property lines, or the property lines extended, at the block corner.

E. Driveways shall not encroach on any part of the curb return at street corners.

F. Driveways shall not be located nearer than four feet to the side property line, at the curbline.

G. A buffer strip, not less than four feet in width, shall be provided on private property parallel to and adjoining the public right-of-way to prevent encroachment upon such right-of-way by parked vehicles. Such buffer strip shall extend along the property frontage for the full extent of the property area to be utilized for parking. Such buffer strip shall include a physical barrier not less than eight inches or more than thirty-six inches in height located adjacent to the parking area.

H. Private sidewalks along the face of the buildings are desirable and will require additional setback of a distance equivalent to the width of sidewalk.

I. Driveways shall be constructed to clear utility poles, light standards, drainage structures, signs, traffic-control device, fire hydrants and other similar installations, or such facilities shall be relocated at the expense of the property owner or lessee in conjunction with the owners or operating authorities of the facilities affected. (Prior code § 27-1-198)

### **13.12.120 Sight distance requirements.**

A. Where feasible within the frontage limits, any driveway shall be located so as to afford maximum sight distance along the highway.

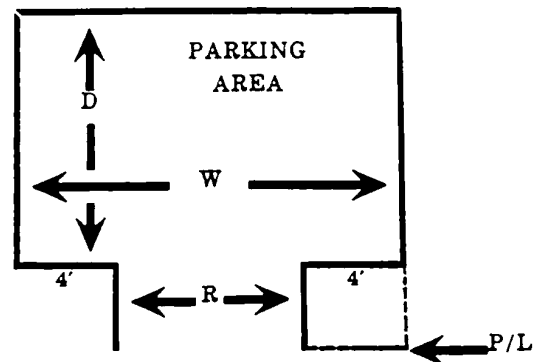
B. Where a driveway is provided to a commercial establishment, the buffer area and adjacent border area shall be reasonably cleared so that either the establishment itself or an appropriate sign located outside the right-of-way can be seen at a sufficient distance to enable proper maneuvers on the part of the drivers desiring to enter the establishment.

C. The profile of the driveway and the grading of the buffer area shall be such that a driver of a vehicle that is standing on the driveway may see a sufficient distance in both directions to enable him to enter the highway without creating a traffic hazard. (Prior code § 27-1-199)

### **13.12.130 Connection with through lane—Curve radius.**

Where space permits, the radius of curve connecting the edge of through traffic lane and edge of driveway shall be the maximum radius to permit turns by the largest vehicle to be expected with some frequency and not to exceed twenty feet maximum radius of curvature. For narrow border conditions, the combination driveway width and edge radius of smaller dimension should be adequate to this end. The radii for driveways on streets on which there are outer parallel parking lanes shall be based on turns from the edge of through lane. (Prior code § 27-1-201)

### **13.12.140 Parking lot size—Requirements.**



D = Depth of parking area  
W = Width of parking area  
R = Width of driveway  
B = Four-foot wide buffer zone  
P/L = Property line

A. For head-in parking, the minimum depth (D) shall be forty-five feet and the minimum width (W) shall be fifty feet.

B. For parking stalls arranged parallel to the street right-of-way:

1. If W is forty feet to forty-eight feet, then D must be the number of car spaces multiplied by nine feet, plus ten feet.

2. If W is forty-eight feet to sixty-seven feet, then D must be the number of car space times nine feet.

3. If W is sixty-seven feet to one hundred fifteen feet, then D must be the number of car spaces multiplied by four and one-half feet.

4. If W is one hundred fifteen feet to one hundred thirty-four feet, then D must be the number of car spaces times three feet.

5. If W is one hundred thirty-four feet to one hundred seventy-three feet, then D must be the number of car spaces multiplied by two and one-quarter feet.

C. For head-in parking at a sixty degree angle to the building line, the minimum width (W) shall be seventy-five feet and the minimum depth (D) shall be forty feet. (Prior code § 27-1-202)

### **13.12.150 Lot requirements for off-street loading docks.**

A. Maneuvering area shall be provided entirely on private property for all vehicles using loading docks or doors.

B. The loading dock or door shall be set back far enough from the right-of-way so that no portion of the right-of-way is occupied by trucks or other vehicles while loading or unloading.

C. The minimum setback for a loading dock or door shall be forty-five feet from the right-of-way. Where tractor-trailer units will be using the facility, the minimum setback shall be sixty-five feet.

D. For any proposed parking pattern which provides for parking headed into the side property lines at any angle other than ninety degrees, driveways will be approved, subject to all other conditions of this chapter, only if proper one-way operation of the parking area is provided. (Prior code § 27-1-203)

### **13.12.160 Deviations.**

The traffic and parking commission and the department of public works may grant permission for deviations from the requirements specified in this chapter, provided one or more of the following conditions exists:

A. Unusual physical conditions requiring special construction;

B. Impossibility of improvement of the property with normal driveway location, where granting deviation requested will not be contrary to public safety, convenience and welfare;

C. Where granting of the deviation requested will not adversely affect present or future rights or development of adjacent property. (Prior code § 27-1-205)

### **13.12.170 Abandoned driveways.**

Any driveway abandoned for vehicular use due to changes in property development or use shall be removed and the site reformed to conformity with adjacent existing conditions. (Prior code § 27-1-206)

### **13.12.180 Nonconforming driveways—Notice to remove—Failure to comply.**

A. Any person violating any of the provisions contained in this chapter shall be notified that the offending driveway construction, reconstruction or repairs shall be removed. Notification shall be made by the traffic and parking commission in writing to the

property owner or lessee and contractor, if any, to the effect that the offending work must be removed within ten days from the date of notification, and the driveway replaced to conform to the provisions contained in this chapter.

B. In the event of failure to comply with notification, the metropolitan government will make the necessary driveway corrections and assess the costs against the property abutting driveway. (Prior code § 27-1-207)

**13.12.190 Sight obstruction prohibited when—Notice to remove—Failure to comply.**

A. It is unlawful for any person to place or cause to be placed or maintained, either temporarily or permanently, any sign, card, poster, pennant, banner, bush, tree, hedge or other obstruction:

1. On private property within twenty-five feet of any street intersection so as to interfere with traffic visibility at the intersection and at no time higher than thirty inches above the crown of the adjacent roadway;

2. On private property in such a manner as to interfere with traffic visibility of any driver using an authorized driveway, alley or roadway;

3. Within the right-of-way of any street within the area of the metropolitan government;

B. Any person violating any of the provisions of this section shall be notified by the traffic and parking commission that the offending sight restriction shall be removed within fifteen days after notification;

C. If the sight restriction is not removed within fifteen days after notification, the traffic and parking commission shall remove said sight restriction, either with metro forces or by normal metro contract procedures, and the expense incurred by metropolitan government in removing the restrictions shall be a debt owed to metropolitan government by the

owner of the property in violation and shall be recoverable in an action brought by the metropolitan government. (Ord. 92-398 § 1, 1992; prior code § 27-1-208)

## **Chapter 13.16**

### **ENCROACHMENTS**

#### **Sections:**

- |                  |  |
|------------------|--|
| <b>13.16.010</b> | <b>Encroachment without permit prohibited—Penalty for violation.</b> |
| <b>13.16.020</b> | <b>Application fee.</b>  |
| <b>13.16.030</b> | <b>Permits or privileges granted by council resolution—Fee.</b>      |

**13.16.010 Encroachment without permit prohibited—Penalty for violation.**

No person may construct, maintain and/or operate any aerial cable, canopy, sign or other encroachment over and/or across any sidewalk or public right-of-way without first obtaining a permit from the metropolitan government. Any person convicted of a violation of this section by constructing, maintaining or operating such encroachments within the previous six months of making an application for a permit for such an encroachment shall not be granted a permit by metropolitan government. (Amdt. 1 to Ord. BL2000-444 § 1, 2000: Ord. 99-1295 § 1, 1999)

**13.16.020 Application fee.**

Any person making application for a license agreement or permit shall, in addition to filing the appropriate application as required by the department of public works, pay to the

metropolitan government a fee of fifty dollars to cover the cost of processing such application and issuing of such license or permit. (Ord. 90-1295 § 2, 1990)

**13.16.030 Permits or privileges granted by council resolution—Fee.**

A. The metropolitan county council may, by resolution adopted by twenty-one affirmative votes, grant encroachments, permits or privileges to construct, maintain and/or operate aerial cables, canopies, etc., over and/or across sidewalks and public rights-of-way.

B. Any person, firm or entity requesting an encroachment, permit or privilege as provided herein shall pay to the metropolitan government a fee in the amount of one hundred dollars upon making such request.

C. Any person, firm or entity requesting construction of any building or for the alteration of any building where such building is to be changed and such change will affect the exterior wall, bays, balconies or other appendages or projections encroaching on, over or under any street, alley or public lane shall comply with the Metropolitan Building and Fire Codes. Depending upon the type of encroachments, permits are required and issued by the codes administration for such construction. This permit is in addition to any application or permit fees required by the department of public works. (Ord. 95-1487 § 88, 1995; Ord. 91-1652 § 1, 1991; Ord. 87-1890 § 1, 1987)

**Chapter 13.20**

**EXCAVATIONS AND OBSTRUCTIONS**

**Sections:**

<b>13.20.010</b>	<b>Definitions.</b>
<b>13.20.020</b>	<b>Permission and notice required.</b>
<b>13.20.040</b>	<b>Penalty for violation.</b>
<b>13.20.050</b>	<b>Permit—Bond and insurance required.</b>
<b>13.20.060</b>	<b>Hours of work—Regulations.</b>
<b>13.20.070</b>	<b>Utility manholes—Testing for flammable or toxic gases required.</b>
<b>13.20.080</b>	<b>Utility manholes—Two work people required at all times.</b>
<b>13.20.090</b>	<b>Barricades required when.</b>
<b>13.20.095</b>	<b>Commencement date and completion date signs required.</b>
<b>13.20.100</b>	<b>Unguarded excavations prohibited.</b>
<b>13.20.110</b>	<b>Night work—Warning lights required.</b>
<b>13.20.120</b>	<b>Interfering with warning lights prohibited.</b>
<b>13.20.130</b>	<b>Refilling excavation sites.</b>
<b>13.20.140</b>	<b>Replacement of sidewalks, pavements and other special structures required—Specifications.</b>
<b>13.20.150</b>	<b>Regulations.</b>

**13.20.010 Definitions.**

As used in this chapter:

“Director” means the director of the metropolitan government department of public works or his designee.

“Excavation” means the digging of any ditch, drain, trench, hole, or similar activity; whether permanent or temporary.

“Obstruction” means any structure, embankment, device, item or thing placed or existing within the right-of-way of the metropolitan government which hinders, impedes or affects the flow of traffic, whether such obstruction is permanent or temporary.

“Person” means any and all persons, natural or artificial, including but not limited to any individual, firm, association, partnership or corporation. (Ord. 97-785 § 1 (part), 1997)

### **13.20.020 Permission and notice required.**

A. No person shall dig or cause to be dug any excavation nor cause any obstruction to be constructed or placed in, on, over or under any street, road, alley, sidewalk or other public way, nor shall any person close or occupy any portion of the public right-of-way by means of or in connection with any excavation or obstruction within the jurisdiction of the metropolitan government without having first applied for and obtained from the director a permit to do so.

B. 1. No excavation may be undertaken in any street, road, alley or right-of-way or of any utility or temporary construction easement of the metropolitan government or other government entity by any department of the metropolitan government or any other entity unless notice as required herein has been given to the fee property owner or the occupant of the property abutting a street, road, alley, or right-of-way in which work is to be performed, or fee owner or occupant of the property burdened by the easement in which work is to be performed, to all property owners or occupants within the block where such work is to be performed, and to the district member(s) of council representing the area of such excavation.

a. Excavations which are to be completed and the excavation area restored within seventy-two hours from the beginning of such work may proceed without the notice required herein if it is demonstrated to the director (1) that the excavation can be performed without causing appreciable disruption or interference with public use of the right-of-way or easement area and (2) that the excavation will not cause significant inconvenience to any owner or occupant of property abutting the right-of-way or to the fee owner where the easement is located. Excavations which proceed under this exemption that are not completed within the allotted time period must immediately comply with the required notice provisions prior to continuing work or excavation.

b. For the purposes of this subsection, adequate notice shall be notice which provides the following information: (1) the total project area of the construction work; (2) the nature of such work; (3) the expected beginning date and completion date of the construction work; (4) the name, address and telephone number of a contact person available to provide information to and receive complaints from the public; and (5) such other information as may be required by the director. Such notice shall be given to the persons provided hereinabove at least ten calendar days prior to the beginning of any such construction work by United States mail postage prepaid to the address of the owners as appears on the property tax rolls of the metropolitan government and to the district council member at the address provided by the metropolitan council office. In lieu of such written notice by mail, notice may be provided to the occupants of the affected properties by a reasonable manner as may be approved by the director. The person holding the permit shall deliver to the director a signed statement containing the list of persons notified or the addresses of the occupants notified and

what manner of notification was used prior to commencement of work.

c. If such construction work requires excavation in an area greater than one city block, the permit holder, in addition to the notice provided herein, shall also be required to erect and maintain during the time of construction a project sign which provides the same information as required in the notices. Such signs shall be in format, quantity, location and size as specified by the director.

2. In the event such construction work is for emergency repairs to a utility or other public works, the notice required herein shall be waived, provided, that notice shall be given as soon as practicable to the owner setting forth both the work being undertaken and the purposes for such emergency repairs. (Ord. BL2000-443 § 1, 2000; Ord. 97-785 § 1 (part), 1997; Amdt. 1 with Ord. 93-815 § 1, 1993)

### **13.20.030 Permit.**

A. Permits shall be issued by the director to any person qualified under Section 13.20.050 of the metropolitan code, meeting all other requirements of this chapter, and upon receipt of the appropriate permit fee.

B. In connection with the issuance of a permit under this chapter, the director shall have the authority to close temporarily or to authorize temporary closure of any street, road, alley, sidewalk, or any other public way or part thereof when, in the director's opinion, the closing is necessary. No public way shall be closed for any purpose without first obtaining a permit from the director.

C. In connection with the issuance of a permit under this chapter, the director may install, or may require installation and maintenance of, traffic-control devices. Such devices and their placement shall meet the requirements of the latest edition of the Manual for Uniform Traffic Control Devices (MUTCD).

D. Excavation Permits.

1. Each separate excavation shall require a permit. Excavated areas of up to five square meters (six square yards) of surface area shall constitute an excavation. Trench excavations running parallel to traffic shall require a permit for each fifty linear feet. The fee for excavation permits shall be fifty-five dollars each. Any excavation permit requested and issued involving roadway pavement on any roadway that has been newly constructed or resurfaced within the past five years in addition to the other fees provided in this section shall require the payment of a pavement assessment fee. The pavement assessment fee shall be equal to five hundred dollars plus twenty percent of the cost to restore the excavation per existing pavement restoration specifications of the department of public works. The cost shall be based on the average cost of similar work performed by metro in the previous year and shall be updated annually by the director of public works. Each year on or about January 1st, the director of public works shall publish the pavement assessment fee.

2. All excavation restoration will be the responsibility of the permittee and shall conform to the specifications of the department of public works; and shall be subject to the approval of the Director of Public Works.

E. Obstruction Permits.

1. Permits shall be issued for temporary obstructions only. Permanent obstructions are prohibited. Except as hereinafter provided, the fee for an obstruction permit shall be fifty-five dollars per day per location.

2. The fee to place a trailer or dumpster in the public right-of-way is ten dollars per day, not to exceed two thousand dollars per year, per location.

F. Permit Fees for Parking Meter Occupancy. When an excavation or obstruction prevents the use of parking spaces regulated by meter, a parking meter occupancy fee of fifteen dollars per meter per day shall be paid by the permittee.



G. Right-of-Way Temporary Closure Permits and Fees.

In addition to any other fees required by this chapter, permits requiring the temporary closure of any portion of the metropolitan government's right-of-way shall be subject to the following fees: The fee for closure permits shall be fifty-five dollars for five or less days. Closures for longer than five days will be charged at the rate of ten dollars per day. Closures in excess of ninety days are prohibited unless approved by the director.

H. Waiver. Fees may be waived by the director for the following:

1. Metro departments performing roadway or roadway feature related maintenance, repair or construction;
2. Activities of federal, state or local governments;
3. When the director finds that it is necessary to close the public way for the immediate protection of public safety. (Ord. BL2004-260 §§ 1—8, 2004; Ord. 97-785 § 1 (part), 1997)

**13.20.040 Penalty for violation.**

In addition to any other penalty imposed or failure to obtain a permit required under this chapter, if commenced before a permit is issued, the permit fees or any permit subsequently issued for that activity shall be tripled. (Ord. 97-785 § 1 (part), 1997)

**13.20.050 Permit—Bond and insurance required.**

A. No excavation or obstruction permit shall be issued to any person until such person shall first have posted a payment and performance bond satisfactory to the director. The amount of the bond shall be equal to the estimated cost of the work, but shall not be less than forty thousand dollars.

B. It shall be the responsibility of the permittee to furnish to the department of codes administration a permit bond in the amount of forty thousand dollars, conditioned to conform to the requirements of this chapter and all applicable laws, ordinances, rules and regulations of the metropolitan government relating to installations for which a permit is required, or for work performed by the principal for which a permit should have been obtained; and to indemnify the metropolitan government and property owners against any and all loss by reason of the failure of such contractor to comply with such laws, ordinances, rules and regulations. Such bond shall be continuous and may not be canceled without at least ten days' prior notice, in writing, to the director of codes administration. The liability of the surety shall continue to attach to work performed pursuant to any permit issued prior to the termination date of the bond even if the noncomplying act should occur after the termination date of the bond. The liability of the surety for any and all claims, suits or action under this bond shall not exceed the bond penalty of forty thousand dollars. The bond shall be issued by a U.S. Treasury-listed corporate surety or a Tennessee domestic insurance company on forms provided by the department of codes administration.

C. It shall be the responsibility of the permittee to furnish a current certificate of public liability insurance issued by a Tennessee-licensed company which provides a minimum of one million dollars per occurrence, except municipalities and other political subdivisions of the State of Tennessee shall have furnished certificate of liability insurance in the amount equal to or greater than minimum limits of liability insurance required for governmental entities in the Tennessee Governmental Tort Liability Act. Tennessee Code Annotated Section 29-20-403. The certificate of insurance shall name the metropolitan government as an additional insured and may not

be canceled without at least thirty days' prior notice, in writing, to the director. (Ord. 97-785 § 1 (part), 1997)

### **13.20.060 Hours of work—Regulations.**

Every person holding a valid permit from the director of public works to perform an excavation or to otherwise cause any obstruction in, on or under any street, road, alley, sidewalk or other public way within the jurisdiction of the metropolitan government shall perform the work or activity permitted only within the hours stipulated on such permit. Work not completed during any stipulated period of hours shall be bridged, backfilled or otherwise rendered usable for pedestrian or vehicular traffic, as specified by the director of public works, until the next period of hours during which work is permitted. Each violation of the permitted hours of work shall constitute a violation of this section. Any person found guilty of two or more offenses shall be disqualified for obtaining further permits for a period not to exceed six months. (Ord. 97-785 § 1 (part), 1997)

### **13.20.070 Utility manholes—Testing for flammable or toxic gases required.**

No person engaged in working in and around any utility manhole shall enter any such utility manhole until testing by instrument or other acceptable method has been performed to determine whether or not such manhole is free from toxic or flammable gases and liquids. When tests indicate the presence of toxic or flammable gases or liquids, the manhole shall be properly ventilated prior to the entering of the manhole by any person. Tests shall be repeated at such intervals as are necessary to make certain that toxic or flammable gases or liquids do not recur in hazardous quantities. (Ord. 97-785 § 1 (part), 1997)

### **13.20.080 Utility manholes—Two work people required at all times.**

No work shall be performed in or about any utility manhole in or adjoining any highway, street, alley, sidewalk or any public place, with less than two persons present at all times. (Ord. 97-785 § 1 (part), 1997)

### **13.20.090 Barricades required when.**

Any person who shall dig or cause to be dug any excavation or cause obstruction to be placed in, on, under, across or adjoining any street, alley, road, sidewalk or other public way or shall perform work in and around any utility manhole in or adjoining any public way within the jurisdiction of the metropolitan government shall have the same guarded at all times with a substantial barricade complying with the requirements of MUTCD and approved by the director, sufficient and suitable to warn persons traveling on or using such street, road, alley, sidewalk or other public way of the presence of such excavation or utility manhole and against danger therefrom. (Ord. 97-785 § 1 (part), 1997)

### **13.20.095 Commencement date and completion date signs required.**

Any department, agency or contractor of the metropolitan government, or any public utility, that shall dig or cause to be dug any excavation, or cause any obstruction to be placed in, on, under, across or adjoining any street, road, or other public way in connection with any excavation, construction, or paving project that is estimated to last twenty or more days in duration shall display a sign visible to the motoring public indicating the expected commencement date and completion date for the project. (Amdt. 1 with Ord. BL2004-235 § 1, 2004)

**13.20.100 Unguarded excavations prohibited.**

It is declared to be a nuisance and unlawful for any person to make any excavation or to establish any opening adjacent to any sidewalk or public right-of-way within the jurisdiction of the metropolitan government without the erection of barricades or other proper precautions to prevent danger to persons or vehicles passing along such sidewalk or public right-of-way. Each day that such excavation or opening shall remain without barricade or other proper precaution shall constitute a separate offense. (Ord. 97-785 § 1 (part), 1997)

**13.20.110 Night work—Warning lights required.**

A. Any person who shall dig or cause to be dug any excavation or cause any obstruction to be constructed in, on, under, across or adjoining any street, road, alley, sidewalk or other public way or shall perform work in and around any utility manhole in or adjoining any public way within the jurisdiction of the metropolitan government shall, in addition to the barricades required by Section 13.20.090, post or otherwise place red or amber lights at the ends and sides of each excavation, utility manhole or other obstruction during the entire night, and if such excavation or other obstruction shall extend more than fifty feet along such street, road, alley, sidewalk or other public way, then additional red or amber lights shall be placed each twenty-five feet or fraction thereof. Where excavations or obstructions shall extend across any street, road, alley, sidewalk or other public way, red or amber lights shall be placed at six-foot intervals along such excavation or other obstructions.

B. All such lights shall be of a type approved by the director of public works and shall be secured in such manner as not to be

displaced by winds or storms. (Ord. 97-785 § 1 (part), 1997)

**13.20.120 Interfering with warning lights prohibited.**

No person shall break, molest, put out, remove or in any manner interfere with any warning lights required by this chapter. (Ord. 97-785 § 1 (part), 1997)

**13.20.130 Refilling excavation sites.**

Every person who shall dig or cause to be dug any excavation in, on, under or across any street, road, alley, sidewalk or other public way within the jurisdiction of the metropolitan government shall carefully refill all such excavations by placing and firmly compacting with crushed stone in paved areas and roadway shoulders pending replacement of pavements or other improvements; and shall fill with selected earth materials in unpaved or otherwise unimproved areas. The director may in his discretion require the use of concrete or flowable fill in lieu of crushed stone backfill. (Ord. 97-785 § 1 (part), 1997)

**13.20.140 Replacement of sidewalks, pavements and other special structures required—Specifications.**

A. Every person excavating in, on, under or across any street, road, alley, sidewalk or other public way within the jurisdiction of the metropolitan government shall replace all curbs, gutters, sidewalks or other special structures disturbed, displaced or removed, at the expense of the person making the excavation and in accordance with the standard requirements and specifications of the department of public works. (No additional permit fee shall be required for such replacement, other than as specified in Section 13.20.030.)

B. Pavements, other than curbs, gutters and sidewalks, removed or damaged as a result of excavating in, on, under or across any street, road, alley or other public way within the jurisdiction of the metropolitan government shall be replaced by and at the expense of the person making such excavation. The pavement replacement shall be performed by a reputable paving contractor within thirty days of backfilling the excavation; or within such shorter or longer time as the director may require. All pavement replacement under this subsection shall be made in accordance with the requirements and specifications of the department of public works and shall only be performed during the presence of inspection personnel of the department of public works. (Ord. 97-785 § 1 (part), 1997)

### **13.20.150 Regulations.**

The director shall have authority, with the approval of the mayor, to implement this chapter by appropriate rules and regulations. (Ord. 97-785 § 1 (part), 1997)

## **Chapter 13.24**

## **PARKS, RECREATIONAL FACILITIES AND CEMETERIES**

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- 13.24.010 Definitions.**
- 13.24.020 Scope.**
- 13.24.030 Construction.**
- 13.24.040 Donations—Authority of board to accept—Exception.**

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#### **Article I. General Regulations and Administration**

##### **13.24.010     Definitions.**

Unless otherwise expressly stated, whenever used in this chapter, the following terms shall respectively mean and include each of the meanings set forth:

“Bathing area” means any area maintained for the use of bathers, including the water area and lands under water adjacent thereto under the jurisdiction of the board.

“Bicycle path” means any path, road or trail maintained for persons riding on bicycles.

“Board” means the metropolitan board of parks and recreation as provided in Article 11, Chapter 10 of the Charter of the metropolitan government.

“Bridle path” means any path or road maintained for persons riding an horseback.

“Foot path or trail” means any path or trail maintained for pedestrians.

“Omnibus” means any vehicle held and used for transportation of passengers for hire.

“Owner” means any person owning, operating or having the use or control of a vehicle, animal or other property under a lease or otherwise.

Park. Unless specifically limited, “park” means and shall be deemed to include all parks, parkways, playgrounds, athletic fields, tennis courts, golf courses, swimming pools, beaches and other recreation areas, museums, zoological and botanical gardens, places, squares, circles, spurs, open places, boulevards, roads, waters and lands under water, and also entrances and approaches thereto, docks and piers, channels and bridges, in, leading to or connecting such park or parts thereof under the supervision and control of the board and such other rights and appurtenances as the board shall utilize, whether the same is now or shall hereafter be owned or acquired by the metropolitan government in fee or otherwise, including all land under and space above the surface of the ground. Included in such term shall be the following areas or properties owned or controlled by the U.S. Army Corps of Engineers:

1.     Anderson Road Launching Ramp Area;
2.     Anderson Road Picnic Area;
3.     Cook Launching Ramp Area;

4. Cook Picnic Area;
5. Dam Site (including Overlook Tailwater Access Areas and Visitor Center Area);
6. Elm Hill Launching Ramp Area;
7. Elm Hill Picnic Area;
8. Four Corners Picnic Area;
9. Four Corners Launching Ramp Area;
10. Left Bank Tail Water Area (including the Nature Trail), Left Bank Dam Site (lock side), and Old Hickory Beach;
11. Seven Points Launching Ramp Area;
12. Seven Points Picnic Area;
13. Smith Springs Launching Ramp Area; and
14. Smith Springs Picnic Area.

“Permit” means any written authorization issued by or under the authority of the board for a specified park privilege permitting the performance of a specified act in the park.

“Playground area” means any area maintained or designated as a playground, including all territory under the supervision and control of the board adjacent to and within twelve feet thereof.

“Police officer” means any member of the police department of the metropolitan government and any other metropolitan employee who is a special policeman appointed and sworn by the chief of police and assigned to the board.

“Rules and regulations” means any rule or regulation of the board established pursuant to Section 11.1002, subsection 2, of the Charter of the metropolitan government, and duly filed with the metropolitan clerk.

“Safety zone” any space within any park so designated by appropriate signs.

“Unnecessary stopping” means bringing a vehicle to a complete stop on a parkway, or a road in a park other than a parking space, or other than in conformity with traffic regula-

tions, or other than because of any emergency. (Ord. 90-1190 § 1, 1990; Ord. 89-959 § 1, 1990; prior code § 30A-1-1)

### **13.24.020 Scope.**

This chapter affecting parks shall be effective throughout the general services district of the metropolitan government area within and upon all areas under the supervision and control of the board, as defined in Article 11, Chapter 10 of the Charter of the metropolitan government, and shall regulate the use thereof by all persons. (Prior code § 30A-1-2(b))

### **13.24.030 Construction.**

In the interpretation of this chapter affecting parks, its provisions shall be construed as follows:

A. Any requirement or provisions of these rules and regulations relating to any act shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, of such act, or the permitting or the allowing of any minor in the custody of any persons, doing any act prohibited by any provision thereof.

B. No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the department of parks and recreation in line of duty or work as such, or by any person or his agents or employees, in the proper and necessary execution of the terms of any agreement with the board.

C. Any act otherwise prohibited by this chapter, provided it is not otherwise prohibited by law, shall be lawful if performed under, by virtue of and strictly in compliance with the provisions of a permit and to the extent authorized thereby.

D. This chapter is in addition to and supplements all municipal, state and federal laws and ordinances.

E. Where any park area is designated by the board so as to prohibit or permit certain activities, such designation shall be posted conspicuously. (Prior code § 30A-1-2(a))

#### **13.24.040 Donations—Authority of board to accept—Exception.**

A. The board of parks and recreation is authorized to accept or refuse gifts, donations, bequest or grants from any source, for any purpose related to the powers and duties of the board.

B. The provisions of subsection A of this section shall not apply to any gift, donation or bequest of land, such gift, donation or bequest being specifically governed by Section 11.1002 (5) (C) of the Metropolitan Charter. (Prior code § 30A-1-2.2)

### **Article II. Cemeteries**

#### **13.24.050 Operation and Maintenance—Responsibilities of the board and the metropolitan historical commission.**

The metropolitan board of parks and recreation shall have the responsibility of maintaining all cemeteries owned by the metropolitan government. The metropolitan historical commission shall have the responsibility of operating all cemeteries owned by the metropolitan government. The historical commission is authorized to promulgate rules and regulations concerning the operation of said cemeteries. The historical commission shall also have the responsibility of approving, prior to installation, any new markers, stones, or any other similar type structures to be placed in said cemeteries. Such approval shall be based on the appropriateness of the structure in keep-

ing with the historic nature of the cemetery. (Ord. BL2003-96 § 1, 2004)

#### **13.24.060 Ownership of burial plots—Authority of board—Appeal.**

A. The metropolitan board of parks and recreation shall issue certificates to persons owning or claiming ownership of cemetery lots. The burden of establishing ownership to burial plots shall be on the person claiming ownership. The certificates shall authorize the burial of a named person or persons to the city cemetery and shall be issued to the person or persons only after the person applying for permission to be buried has established ownership or chain of title to the burial plot.

B. The metropolitan board of parks and recreation or its designee shall have final authority to determine ownership of burial plots. Any person aggrieved by the decision of the board shall have the right to appeal that decision to the Circuit and Chancery Courts of Davidson County. (Prior code § 30A-1-2.1(b), (c))

### **Article III. Regulated Activities**

#### **13.24.070 Permits—Conditions—Revocation.**

A. A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the written terms and conditions thereof. Any violation of any law, ordinance, provision of this code or rule or regulation of the board or of any other metropolitan department by the holder or the agents or employees of the holder of any permit of any term or condition thereof shall constitute grounds for revocation by the board or by its authorized representative, whose action therein shall be final.

B. In case of revocation of any permit, all money paid for or on account thereof shall, at the opinion of the board, be forfeited to and be retained by the metropolitan government; and the holder of such permit, together with his agents and employees who violated such terms and conditions, shall be jointly and severally liable to the metropolitan government for all damages and loss suffered by it in excess of any money so forfeited and retained; but neither such forfeiture and retention by the metropolitan government of the whole or any part of such money nor the recovery or collection of such damages or both shall in any manner relieve such person from liability to punishment for any violation of any law, ordinance, provision of this code or rule or regulation of the board or of any other metropolitan department. In any case where a permit issued by the board is to be exercised on park property, occupied by a museum, zoological or botanical society, the same will require approval of such society. (Prior code § 30A-1-13)

#### **13.24.080 Hours.**

No person shall, under any circumstances, enter for the purpose of remaining therein or remain in any park between the hours of eleven p.m. and one-half hour before sunrise without general or special permission from the board. (Prior code § 30A-1-28)

#### **13.24.090 Alcoholic beverages.**

A. It is unlawful for any person to possess or have under his control any beer, ale or other alcoholic beverages in any park or recreation area under the supervision or control of the board, except under such circumstances, in such places and at such times as the board may, by their rules and regulations, determine; provided, that in no case may a person possess or have under his control beer, ale or other al-

coholic beverages in any playground area, swimming pool, recreation center building or comfort station, except as provided in subsection B of this section. Proof of possession of beer, ale or other alcoholic beverages in a park or recreation area under the supervision and control of the board shall be prima facie evidence of a violation of this section, and it shall be incumbent upon a person charged to prove by certified copies of the rules and regulations of the board that an exception has been granted.

B. Notwithstanding any other provisions of this code, ordinances of the metropolitan government, sections of this chapter or private acts, there is permitted the sale and consumption of beer in parks or recreation areas under the supervision and control of the board, subject to the following restrictions:

1. Beer may be sold and consumed only at municipally owned golf courses.

2. All provisions of metropolitan council ordinances and this code pertaining to the sale of beer at retail shall apply to the sale of beer at municipal golf courses; except, that no beer shall be sold after eight p.m. or before eight a.m. weekdays, or before one p.m. on Sundays.

3. Beer and alcoholic beverages may be sold for consumption on premises of any property leased from the board of parks and recreation for use by a professional athletic team. Provided, however, alcoholic beverages may be sold for consumption only in the stadium club or restaurant or in enclosed suites and only when the facilities are being utilized for professional baseball activities. The beer permit shall be valid only when the facilities are being utilized for professional athletic team activities. All distance requirements set forth in Chapter 7.08 of the Metropolitan Code must be met by the applicant prior to issuance of the beer license.

4. Beer may be sold and consumed at special events in parks or recreation areas



that are under the supervision and control of the metropolitan board of parks and recreation, subject to their approval, within the boundary described herein as: beginning at the point of the intersection of Interstate 40 and Herman Street, then East to the intersection of Herman Street and 9th Ave. North, then north to the intersection of 9th Ave. North and Jefferson Street, then east to the intersection of Jefferson Street and Interstate 65, then south to the intersection of Interstate 65 and Interstate 40, then west to the point of beginning. (Ord. BL2000-263 § 1, 2000; Ord. 98-1430 § 1, 1998; Ord. 97-772 § 1, 1997; Ord. 94-960 § 1, 1994; Ord. 90-1339 § 1 (30A-1), 1990: prior code § 30A-1-29)

#### **13.24.100 Bathing and swimming.**

No person shall bathe, wade or swim in any waters under the supervision and control of the board except at such times and in such places as the board may designate or maintain as bathing areas. Appearing in bathing costume or any other than ordinary attire, except in such areas, is prohibited, and no person shall bathe, wade or swim or appear in any such area unless covered with a bathing suit having trunks properly supported with straps or other devices which must be kept in place at all times. No person shall dress or undress in any park except in such bathhouses as may be designated or maintained for that purpose. (Prior code § 30A-1-22)

#### **13.24.110 Boating.**

A. No boat or vessel shall be laid up, stored, repaired or placed for any other purpose on park land except by permits.

B. No person shall operate a boat propelled by sail or steam, naphtha, gasoline, electric or other motor or engine, or row or paddle a row boat, canoe or raft in, on or upon any waters under the supervision and control

of the board unless able to control or handle the same with safety to himself or other occupants thereof, or otherwise than in a careful or prudent manner and at a rate of speed so as not to disturb the reasonable comfort or endanger the property of another or the life and limb of any person, or in such manner as to annoy or endanger occupants of other boats. No person shall stand up in or rock any row boat or canoe.

C. No boat of any class shall land upon the shores of any park except at such locations as may be designated or maintained as landing places, except in an emergency.

D. Boating of any kind in a bathing area is forbidden.

E. All rules and regulations which have been proclaimed and adopted by the state game and fish commission as to the operation of vessels on portions of Old Hickory Lake are adopted in this section as if they were set out in the entirety.

F. The metropolitan board of parks and recreation is authorized to adopt rules and regulations concerning the use of Riverfront Park for the docking and anchoring of boats. These rules and regulations may include a rate schedule which allows for the charging of a reasonable fee for such use of the park facility, as well as a reasonable fee for the permitting of all boats docking or anchoring at Riverfront Park. The rules and regulations adopted by the board of parks and recreation may further include a procedure for their proper enforcement, provided such rules and regulations shall not be effective unless approved by the adoption of a resolution of the metropolitan county council.

1. No person shall operate a boat at Riverfront Park in violation of the rules and regulations established by the board of parks and recreation. Persons operating boats contrary to such rules and regulations shall be charged with a violation of the applicable rule.

2. Each violation of the rules and regulations concerning the docking or anchoring of boats at Riverfront Park, adopted by the board of parks and recreation and filed with the metropolitan clerk, shall constitute a separate offense. Each day any violation occurs shall also be considered as a separate offense. Each offense shall be punishable pursuant to the provisions of Section 1.01.030 of the Metropolitan Code of Laws. (Ord. 1329 § 2 (part), 1995; Amdt. 2 to Ord. 91-1560, 5/21/91; Amdt. 1 to Ord. 91-1560, 4/16/91; Ord. 91-1560 § 1, 1991; prior code § 30A-1-20)

#### **13.24.120 Animals—Protection requirements.**

A. No person shall, within any park, molest, kill, wound, trap, hunt, take, chase, shoot or throw missiles at, remove or have in his possession, any feral animal, reptile, bird, bird's nest or squirrel's nest, or remove the young of any such animal or the eggs or young of any such reptile or bird, or knowingly buy, receive, have in his possession, sell or give away any such animal, reptile, bird or egg so killed or taken.

B. No person shall feed animals in any zoo area, except unconfined squirrels, sparrows, pigeons and ducks. No person shall throw anything whatever into any animal cage or enclosure, or tease, annoy, frighten, molest or injure in any manner any animal or bird, whether confined or otherwise. (Prior code § 30A-1-18)

#### **13.24.130 Animals—Running at large.**

A. No person owning or being custodian or having control of any animal shall cause or permit such animal to go at large in the park. A dog may be brought into a park; provided, that such dog shall be continuously restrained by a leash not exceeding six feet in

length; except, that no dog or other animal shall be permitted in buildings or in zoos, playgrounds, bathing and other areas designated by signs as prohibited areas.

B. Any animal found at large may be seized and impounded or disposed of pursuant to the laws or ordinances of the state and the metropolitan government in relation to the disposal of stray animals on the highways or other public places.

C. No person having the care or charge of any dog or other animal shall permit such animal to enter or drink the water of any drinking fountain, lake or pond in any park except at places designated or maintained therefor. (Prior code § 30A-1-26)

#### **13.24.140 Construction work.**

A. No person or agency shall perform construction work or any kind of work incidental thereto in any park without a permit or under a contract with the board.

B. No person shall erect or maintain projections on, over or under any park without first obtaining a permit therefor from the board, and upon such terms and conditions, and without making such compensation to the metropolitan government as the board may determine. (Prior code § 30A-1-30)

#### **13.24.150 Exhibitions and contests.**

A. No person shall erect any structure, stand or platform, exhibit any dramatic performance or the performance, in whole or in part, of any interlude, tragedy, comedy, opera, ballet, play, farce, minstrelsy, dancing, entertainment, motion picture, public fair, circus, juggling, rope-walking or any other acrobatics or show of any kind or nature, or parade, drill or maneuver of any kind, or run or race any horse or other animal or being in or on a vehicle, race with another vehicle or horse whether such race is founded on any stake, bet or oth-

erwise, or hold any athletic contest, in any park except in accordance with the rules and regulations of the board.

B. The board shall adopt, promulgate and enforce such rules and regulations consistent with the proper use and protection of the park property under its supervision and control. (Prior code § 30A-1-14)

#### **13.24.160 Fires and lighted cigarettes.**

A. No person shall kindle, build, maintain or use a fire except in fireplaces provided or in self-supporting barbecue grills or stoves in designated picnic areas or under special permit. Any fire shall be continuously under the care and direction of a competent person over twenty-one years of age from the time it is kindled until it is extinguished, and no fire shall be built within ten feet of any tree or building, or beneath the branches of any trees or in any underbrush.

B. No person shall throw away or discard any lighted match, cigar or cigarettes in any park or park-street. Cigars, cigarettes and matches shall be extinguished and deposited in a suitable container provided for the reception thereof. (Prior code § 30A-1-19)

#### **13.24.170 Fishing.**

Fishing is prohibited in any waters under the supervision and control of the board, except in such areas as are designated or maintained as fishing areas. No person shall have in his possession or take or attempt to take any fish in any such waters except in such designated areas, or at any time throw missiles at any fish, or place in such waters any piscivorous fish, poison or other substance injurious to fish. (Prior code § 30A-1-21)

#### **13.24.180 Games.**

No person shall in any park throw, cast, catch, kick or strike any baseball, golf ball, tennis ball, football, basketball, bowling ball, croquet ball, bean bag or other object, nor shall any person engage in any sport, game or competition, in places specifically prohibited. (Prior code § 30A-1-25)

#### **13.24.190 Horses and beasts of burden.**

No person shall use, lead, ride or drive a horse or other beast of burden in any park, except on designated bridle paths or along routes customarily used for access to and from bridle paths, unless otherwise authorized by the board. Driving or riding on a bridle path in a reckless manner is prohibited. Horses shall be well broken and constantly held in such control that they may easily or quickly be turned or stopped. No person shall permit any horse owned by him, or in his care or custody, to be unbridled or left unattended in any unclosed space, without being securely fastened. (Prior code § 30A-1-27)

#### **13.24.200 Meetings, assemblies and ceremonies.**

A. No person shall erect any structure, stand or platform, hold any meeting, perform any ceremony, make a speech, address or oration, or exhibit or distribute any sign, placard, notice, declaration or appeal of any kind or description, in any park except by permit issued by the board.

B. Upon application, such permit will be issued unless:

1. The use for which the permit is sought is of a private or commercial nature; or
2. The location selected is not suitable because the area is specially landscaped and planted with botanical, flower, shrub or tree exhibits; or

3. The location selected is not suitable because it is one of the specialized park use areas such as zoos, skating rinks, swimming pools, recreational, etc.; or

4. The date and time requested has previously been allocated by permit, or would obstruct and interfere substantially with park use and enjoyment by the public.

C. Whenever a permit is denied by reason of paragraphs (2), (3) or (4) of subsection B above, alternative suitable locations and dates shall be offered to the applicant. (Prior code § 30A-1-15)

#### **13.24.210 Peddling.**

No person shall, in any park or to any person in any park, exhibit, sell or offer for sale, hire, lease or let out any object or merchandise, or anything whatsoever, whether corporeal or incorporeal, tickets for entertainments or other affairs of any description included, except under a permit issued by the board. For advertising, commercial or publicity purposes, no person shall take moving pictures or photographs within the limits of any park, or buy or sell or publish the negatives thereof or the prints therefrom or exhibit such negatives or prints in public, or use pictures or photographs of any park or park structure, or perform any personal service for hire in any park, except under a permit or otherwise than in accordance with the terms of such permit. Possession of objects or merchandise in quantities, packages or containers customarily associated with peddling shall be deemed to be prima facie evidence of exhibiting or offering for sale. (Prior code § 30A-1-17)

#### **13.24.220 Picnics.**

The board is authorized to adopt, promulgate and enforce rules and regulations governing picnics or outings consistent with the proper use and protection of park property.

Such authority shall include but not be limited to regulating the time, place and manner where picnics or outings may be held and may include the issuance of permits therefor. (Prior code § 30A-1-16)

#### **13.24.230 Skating and sledding.**

A. No person shall use roller skates or in-line skates in any park except at such times and upon such places as may be designated or maintained therefor, or skate, sled, walk or go upon any ice, or snowshoe or ski or tow persons on skis, sleds or skates, except at such times and upon such places as may be designated or maintained therefor.

B. No person shall, in any park, coast with handsleds, bobs, carts or other vehicles, on wheels or runners, except at such times and upon such places as may be designated or maintained therefor.

C. The operators of roller skates and in-line skates are further subject to the provisions of Metropolitan Code of Laws Chapter 12.58. (Ord. 98-1352 §§ 4, 5, 1998; prior code § 30A-1-23)

#### **13.24.240 Model airplanes, boats and autos.**

No person shall in any park engage in toy aviation, model boating or model automobiling, except at places designated or maintained therefor. (Prior code § 30A-1-24)

### **Article IV. Vehicles and Traffic**

#### **13.24.250 Compliance with police and park directions required.**

All persons shall at all times heed and comply with traffic directions of the police officers indicated by gesture or otherwise in using parks, and shall further comply with direc-

tions on traffic signs along the routes in the parks. Directions on such traffic signs may be disregarded only on an order of a police officer. In parking spaces, all persons shall comply with the directions of a park employee. (Prior code § 30A-1-31)

#### **13.24.260 Compliance with state and metropolitan traffic laws required.**

No person shall operate a motor vehicle within any park area in violation of the laws of the state or the metropolitan government. Persons operating motor vehicles contrary to such laws shall be charged with violating the applicable statute of the state provision of this code. (Prior code § 30A-1-44)

#### **13.24.270 Reckless driving prohibited.**

No person shall, in any park, operate or drive or propel, and no owner thereof shall cause or permit to be operated, driven or propelled, any vehicle recklessly or negligently or at a speed or in such a manner as to endanger or injure persons or property. (Prior code § 30A-1-36)

#### **13.24.280 Speed limits.**

A. No person shall drive a vehicle on a street within any park at a speed greater than is reasonable and prudent under the conditions then existing. Where no special hazard exists, the maximum speed limit in all parks shall be twenty miles per hour, unless otherwise posted.

B. When official signs are posted indicating the speed limit in certain areas, it shall be unlawful for any person to drive or operate a vehicle in such area in excess of the legal speed limit as posted. (Prior code § 30A-1-32)

#### **13.24.290 Restrictions on certain vehicles.**

A. **Commercial Vehicles.** Vehicles constructed or adapted for or engaged in the carrying of merchandise, including samples of merchandise, trucks and trailers are prohibited from using any park except where necessary to make deliveries in such park. Whenever service roads adjoin the main roadway to a park, such vehicles shall use the service roads set apart for such use. In all cases, such vehicles shall enter such parks from the nearest street intersection or entrance, in the direction of traffic, and leave by the nearest intersecting street or exit in the direction of traffic.

B. **Vehicles With Signs.** Vehicles having any name, insignia or sign painted or displayed thereon for businesses or advertising purposes are prohibited in parks, except as provided in subsection A of this section. For purposes of identification, name and address only of the owner of the vehicles on the sides thereof in letters not more than two inches in height shall not be construed as being displayed for business or advertising purposes.

C. **Vehicles Carrying Garbage.** No garbage, ashes, manure or other offensive material shall be carried through any park. When such refuse is to be removed from premises fronting on any park, the vehicle collecting the same shall leave the park as soon as the collection has been accomplished, and by the shortest available route.

D. **Omnibuses.** No person shall drive or operate within any park any omnibus adapted for more than seven passengers, except under a permit. Omnibuses known as outing buses will be permitted to operate between the shortest possible routes from outside a park to deliver to or pick up its passengers from a picnic, bathing or other recreation area only if a permit to enter the park has been issued to the person sponsoring the outing, picnic, etc. Buses shall proceed over the route and to the parking space designated in the permit. Park-

ing in the designated parking space will be limited to the time prescribed in the permit.

E. Hearses. No hearse or other vehicles carrying or used for carrying the body of a dead person shall enter or be allowed in any park, except by permit or in case of emergency. (Prior code § 30A-1-33)

### **13.24.300 Areas of vehicle operation restricted.**

No person shall, in any park, drive or operate a vehicle within or upon a safety zone, walk, bridle path or any part of any park designated or customarily used for such purposes. No person shall ride a bicycle, velocipede or scooter in any park, except in places designated for such riding, but persons may push such machines in single file to and from such places, except on beaches. (Prior code § 30A-1-37)

### **13.24.310 Parking.**

No person, in stopping or parking a vehicle in any park area, shall:

A. Disobey a lawful and reasonable order of a police officer or any park employee in the discharge of their duties or disobey or disregard the notices, prohibitions, instructions or directions on any park sign or parking meter, including rules and regulations of museums or zoological or botanical gardens posted on the grounds or buildings of such institutions.

B. No person shall, between eleven p.m. and one-half hour before sunrise, stop or park a vehicle in a park, except at places designated or maintained therefor. (Prior code § 30A-1-40)

### **13.24.320 Operation off of paved roadway prohibited—Stalled vehicles.**

A. No vehicle shall be operated or driven off the improved or paved roadways of any park or parkway unless so directed by a police officer or park employee.

B. All stalled or disabled vehicles shall be removed from paved roadways in parks so as to prevent obstruction of traffic. If not so removed by the owners or operators, then such vehicles may be removed to the metropolitan government towing lot at the expense of the owners.

C. No disabled vehicle shall be permitted to remain in a park for a longer period than twenty-four hours. (Prior code § 30A-1-42)

### **13.24.330 Obstructing traffic prohibited.**

No person shall cause or permit any vehicle to obstruct traffic in any park, or to stop such vehicle except at those places specifically designated or maintained for the purpose of stopping or parking, except in cases of emergency. (Prior code § 30A-1-39)

### **13.24.340 Driving instruction prohibited.**

Instructions in operating automobiles or motorcycles is prohibited in parks at all times. Persons who may not lawfully operate a vehicle within the state or the metropolitan government area shall not drive or operate a vehicle within any park. (Prior code § 30A-1-38)

### **13.24.350 Hitchhiking prohibited.**

No person shall, in any park or park street, attempt to stop or stop, by any visible or audible sign or signal, any vehicle for the purpose of soliciting a ride, except in case of emergency. (Prior code § 30A-1-35)

**13.24.360 Soliciting passengers prohibited—Exceptions.**

No person shall solicit passengers for any automobile, coach, taxi, omnibus or other vehicle in any park, except in such areas as may be designated therefor, and only to the extent specifically designated. All chauffeurs, drivers and attendants of such vehicles shall remain in close proximity to their vehicles while the same are unloading, awaiting or loading passengers. In no case shall cruising or soliciting of passengers in a park be permitted. (Prior code § 30A-1-34)

**13.24.370 Towing and projecting articles prohibited—Exceptions.**

A. No person shall cause or permit a vehicle to be towed by another vehicle in any park; except, that in case of a breakdown, a disabled vehicle may be towed to the nearest exit. Licensed towing operators may enter such park in response to a call from an owner or operator of a disabled vehicle. In all cases, such towing operators shall enter such park from the nearest street intersection or entrance, in the direction of traffic, and leave by the nearest intersecting street or exit in the direction of the traffic.

B. No person shall operate or drive in any park a vehicle containing any person or object projecting or hanging outside or on the top thereof; except, that outdoor sports and recreation equipment, including, but not limited to, skis, ski poles, fishing rods, beach chairs, beach umbrellas, tent poles, toboggans and sleds, may be carried on the rear of such vehicle or on a rack designed for that purpose and attached to the top thereof; provided, that in all cases, fastenings shall be secure and substantial and such equipment so carried shall in no case project more than twelve inches above the top or to the rear of such vehicle. (Prior code § 30A-1-41)

**13.24.380 Repair work on vehicles prohibited.**

No person shall, in any park, grease, lubricate or make repairs to any vehicle, except those of a minor nature, and then only in cases of emergency. (Prior code § 30A-1-43)

**Article V. Unlawful Activities**

**13.24.390 Advertising.**

No person shall distribute, display, transport, carry or construct any flag, banner, sign, emblem, model, device, pictorial representation or other matter within any park for advertising purposes. Nor, for the same purpose, shall any person display, by means of aircraft, kite, balloon, aerial bomb or any other device, any flag, banner, sign or any other matter above the surface of any park for advertising purposes within the park. No person shall operate any musical instrument or drum or cause any noise to be made within any park for advertising purposes or for the purpose of attracting attention to any exhibition, performance, show or other spectacle; provided, further, nothing herein shall be construed as to prohibit any gathering or function of a political or of a religious nature. (Prior code § 30A-1-6)

**13.24.400 Aviation.**

No person shall voluntarily bring, land or cause to descend or alight within or upon any park, any airplane, flying machine, balloon, parachute, or other apparatus for aviation. "Voluntarily," in this connection shall mean anything other than a forced landing. Any landing other than one caused by mechanical or structural failure of the aircraft or any of its parts shall be deemed to have been made voluntarily, and this shall include landings caused by error or oversight, negligence or failure to comply with FAA regulations or

rulings. This section is to be construed in pari materia with Section 13.24.240 of this code. (Prior code § 30A-1-10)

### **13.24.410 Camping.**

No person shall tent or camp or erect or maintain a tent, shelter or camp in any park, except in those areas specifically designated by the board for such purpose. (Prior code § 30A-1-11)

### **13.24.420 Commercial fishing.**

No person shall take or attempt to take for commercial purposes any eels, fish or other forms of marine life in any park by using hand or power operated equipment, including but not limited to trawls, nets, dredges or eel combs. No person shall have in his possession in any park any hand or power operated equipment designed for or customarily used for the taking, for commercial purposes, of any form of marine life, nor, shall any person have in his possession in any park eels, fish or other form of marine life in quantities more than sufficient for personal use of the possessor, or which would violate limits set by the state game and fish commission. (Prior code § 30A-1-12)

### **13.24.430 Disorderly conduct.**

No person shall, in any park:

- A. Disobey the lawful and reasonable order of a police officer or park employee in the discharge of his duties or disobey or disregard the notices, prohibitions, instructions or directions on any park sign or parking meter, including rules and regulations of museums or zoological or botanical gardens posted on the grounds or buildings of such institutions;
- B. Use threatening, abusive or insulting language;
- C. Do any obscene or indecent act;

D. Throw, cast or propel stones or other missiles;

E. Solicit alms, subscriptions or contributions for any purpose;

F. Interfere with, encumber, obstruct or render dangerous any part of a park;

G. Climb or lie upon any wall, fence, shelter, seat, statue, monument or other structure;

H. Do any act tending to or amounting to a breach of peace;

I. Enter or leave any park facility except at established entrance ways or exits, or at established times;

J. Use or gain admittance to or attempt to use or gain admittance to the facilities in any park for the use of which a charge is made without paying the charge or price fixed by the board;

K. Engage in, instigate, or encourage a contention or fight, whether or not a ring or prize fight;

L. Do, aid, abet or assist in doing any act injurious to any person, animal or property within any park not specifically prohibited in this chapter;

M. Act as crier or advertiser, through the media of voice, public address system or other mechanical device, in any park or in the vicinity of the same. (Prior code § 30A-1-7)

### **13.24.440 Explosives, fireworks and firearms.**

No person shall bring into or have in his possession in any park any firearms, slingshots, firecrackers, torpedoes, fireworks or other missile propelling instruments or explosives, including any substance, compound, mixture or article having properties of such a character that alone or in combination or contiguity with other substances, mixtures, compounds or articles may propel missiles or may decompose suddenly and generate sufficient



heat, sound, gas or pressure or any or all of these to produce rapid flames, combustion or noxious or dangerous odors or sounds such as to annoy any other person or to injure any person or property. (Prior code § 30A-1-9)

#### **13.24.450 Gambling.**

No person shall play any games of chance, sell fortunes or futures, participate in the conduct of a lottery or use any slot machine, gaming table or instrument or bring into any park or have in his possession while there any implements or devices commonly used, or intended to be used, for gambling purposes. (Prior code § 30A-1-8)

#### **13.24.460 Polluting.**

A. Littering. No person shall take into, carry through, leave in or throw, cast, lay, drop or discharge into or on any park any rubbish of any sort, including but not limited to ashes, dross, cinders, shells, fruits, fruit skins, vegetable foodstuff, paper, pasteboard, dirt, sand, oil, grease, clay, loam, stone or building rubbish, hay, straw, oats, sawdust, shavings or manufacturing trade or household waste, vehicles or parts thereof as junk, old iron or other metal or objects made therefrom, or sick, diseased or dead animals, organic refuse or other offensive matter, including swill, brine, urine, offal, fecal matter, garbage or rubbish. The placing, except in receptacles provided for refuse, or using for any other purpose than reading, of newspapers or other papers in a park is prohibited. No person shall throw, cast, lay or deposit any bottle or piece of crockery, or any glass or glassware or any part thereof, or metallic or other substance with sharp edges or projections, in any park. No person shall place household refuse and garbage in receptacles which are provided solely for newspapers and litter resulting from normal park use.

B. Spitting. No person shall in any park or park street, spit upon any walk, crossing, safety zone, structure, bridge, platform, stairway or floor of any building or structure.

C. Polluting Waters. No person shall throw, cast, lay, drop or discharge into or leave in the waters used for bathing or waters in any park or in any storm sewer or drain flowing into such waters any substance, matter or thing, liquid or solid, which may or shall result in the pollution of such waters.

D. Discharging into Sewers. No person shall discharge, directly or indirectly, into any opening or into any gutter leading into any sewer, receiving basin or drain, in or leading into any park, any gas or vapor or any substance which may form a deposit tending to choke the same, or any volatile liquid which will emit an inflammable vapor, or any steam or hot water above one hundred degrees Fahrenheit. (Prior code § 30A-1-5)

#### **13.24.470 Hunting and trapping wildlife—Carrying firearms.**

A. It is unlawful for any person to hunt or trap any of the game or fowl within any parks located within the area of the metropolitan government, which are under the jurisdiction and control of the board of park commissioners.

B. It is unlawful for any person, other than an official park policeman on duty or other law enforcing officer, to carry or discharge a firearm of any description or any BB gun or air rifle within any of the parks of the metropolitan park system, which are under the jurisdiction of the board of park commissioners. (Prior code § 29-1-46)

#### **13.24.480 Plant life—Disturbing, removing or destroying.**

A. No person shall in any park destroy, cut, break, deface, mutilate, injure, dis-

turb, sever from the ground or remove any growing thing, including but not limited to any plant, flower, flower bed, shrub, tree, growth or any branch, stem, fruit or leaf thereof; or bring into or have in his possession in any park any tool or instrument intended to be used for the cutting thereof, or any garden or agricultural implements or tools which could be used for the removal thereof; or pile or maintain any material or debris of any kind against or upon the same; or attach any rope, cable or other contrivance thereto; or set fire to any trees, shrubs, plants, flowers, grass, plant growth or living timber; or suffer any fire upon land to extend into park lands; or hitch any horse or other animal to or leave the same standing enough to injure any tree, shrub, lawn or grass plot; or go upon any prohibited lawn, grass plot or planted area, except at such times and in such manner as the board may designate.

B. No person shall bring into or have in his possession in any park any tree, shrub or other plant or any branch, stem, flower or leaf thereof.

C. No person shall attach any posters or directional signs to trees. (Prior code § 30A-1-4)

#### **13.24.490 Property—Removing or destroying.**

No person shall injure, deface, displace, remove, fill in, raise, destroy or tamper with any drive, path, walk, bridge or approach thereto; take up, remove or carry away any asphalt, curb, flagstone, rock, stone, gravel, sand, clay or earth; make any excavation of any kind, name or nature; harvest, cut, injure or remove any ice; injure, mutilate, deface, displace, remove or destroy any wall, fence, shelter, seat, statue, monument or other structure, building, post, railing, bench, seat, platform, stand, tree guard, telephone, telegraph, pipe or main for conducting gas, water or wires or any hydrant, sewer, drain, pipe, main, receiving

basin, covering, manhole or vent forming a part thereof, or any appurtenance or appendage conforming therewith, or any other property or equipment, real or personal, owned by the metropolitan government or under the supervision or control of the board or appertaining to the creation, government, use or maintenance of any park; or injure, deface, displace, remove or destroy any sign, notice, inscription, post or monument erected or marked for any purpose, or any milestone, danger sign or signal, guide sign or post, or any signaling device, sanctioned, installed or placed by the board, by the police department or traffic and parking commission of the metropolitan government within any park for the purpose of directing, restricting or regulating traffic, establishing zones or giving information or directions to the public; or interfere with any lamp, lamppost, gas or electric light apparatus or light, or extinguish the light therein, or attach string, adjust or suspend any wires or similar objects on or over any part of any park. (Prior code § 30A-1-3)

## **Chapter 13.26**

### **NAMING OF PUBLIC BUILDINGS**

#### **Sections:**

**13.26.010 Ordinance required to name public buildings.**

**13.26.020 Other requirements.**

#### **13.26.010 Ordinance required to name public buildings.**

No building or structure of the metropolitan government may be named except pursuant to an ordinance duly adopted by the metropolitan county council. (Ord. 94-1052 § 1, 1994)

### **13.26.020 Other requirements.**

Any ordinance filed with the council seeking to name a public building or structure after a person or company shall have attached biographical information of the person to be so honored and if a company, information relating to its history and contribution to the metropolitan government. Any ordinance filed seeking to name a building or structure under the operation or control of a board or commission of the metropolitan government shall have a recommendation of such board or commission prior to its adoption on second reading by the council. (Ord. 94-1052 § 2, 1994)

## **Division II. Urban Services District Regulations**

### **Chapter 13.28**

#### **HOUSE NUMBERING SYSTEM**

##### **Sections:**

- 13.28.010 West of Cumberland River.**
- 13.28.020 East of Cumberland River.**
- 13.28.030 Allotment of numbers—  
Display required when.**
- 13.28.040 Removing or changing  
numbers prohibited.**

#### **13.28.010 West of Cumberland River.**

The following system for the numbering of houses and lots in the urban services district west of the Cumberland River is adopted:

A. Broadway, beginning at the west bank of the river, continuing west at West End Avenue to the boundary of the urban services district, shall be the dividing line north and south. The Cumberland River shall be the dividing line east and west.

B. Even numbers shall be placed on the north and east sides of streets and odd numbers on the south and west sides of streets on the west side of Cumberland River. (Prior code § 38-2-23)

#### **13.28.020 East of Cumberland River.**

The following system for the numbering of houses and lots in the urban services district east of the Cumberland River is hereby adopted:

A. Main Street from Cumberland River to Tenth Street, East Lindsley Street from Tenth Street to Eleventh Street, at the intersection of Woodland Street and Woodland Street from Eleventh Street to the boundary of the urban services district shall be the dividing line north and south.

B. Even numbers shall be placed on the south and west sides of streets and odd numbers on the north and east sides of streets. (Prior code § 38-2-24)

#### **13.28.030 Allotment of numbers— Display required when.**

A. The director of public works is authorized and empowered to allot house numbers for all houses abutting on streets in the urban services district, and the owners of such houses shall provide themselves with numbers allotted to them and with number plates of the general design and pattern approved by the director of public works and shall cause the same to be placed upon their houses whenever such houses are unnumbered or are numbered incorrectly.

B. The director of public works shall require street numbers to be displayed on all commercial businesses in metropolitan Nashville, Davidson County. The size and design of the street numbers shall be approved by the director of public works, who is empowered to establish rules and regulations regard-

ing the disposition of street numbers to ensure that the street number is visible from the street. (Prior code § 38-2-25)

### **13.28.040 Removing or changing numbers prohibited.**

It is unlawful to take down, deface, destroy, injure or change any of the numbers placed on buildings under the provisions of this chapter, or to use or permit to be kept upon any building any different number than is authorized by the director of public works. (Prior code § 38-2-26)

## **Chapter 13.32**

### **STREET AND SIDEWALK REGULATIONS**

#### **Sections:**

- 13.32.010 New streets—Designation and naming.**
- 13.32.020 Ditch digging—Permit required.**
- 13.32.030 Repair and maintenance—Owner responsibility—Hold harmless agreement.**
- 13.32.040 Snow and ice removal—Owner responsibility.**
- 13.32.050 Flagpole socket regulations—Contract authorization—Approved locations.**
- 13.32.060 Flagpole socket contract—Cancellation.**
- 13.32.070 Use of flags, poles and fixtures—Requirements.**
- 13.32.080 Encroachments prohibited—Notice to abate.**
- 13.32.100 Removal of obstructions—Offender's responsibility.**
- 13.32.110 Public nuisances prohibited.**

- 13.32.120 Barbed wire fences prohibited—Exceptions.**
- 13.32.130 Dragging timber prohibited.**
- 13.32.140 Dumping fires or burning cinders prohibited.**
- 13.32.150 Burning leaves or trash prohibited.**
- 13.32.160 Curb service of food or merchandise—Regulations.**
- 13.32.165 Sidewalk cafe dining facilities.**
- 13.32.170 Gratings or cellar doors opening onto sidewalks—Restrictions.**
- 13.32.190 Depositing wood, coal or lumber on sidewalks.**
- 13.32.200 Throwing articles from houses into street.**
- 13.32.210 Injuring trees prohibited.**
- 13.32.220 Washing vehicles on streets prohibited.**

### **13.32.010 New streets—Designation and naming.**

A. All streets running north and south that may be opened or that may be brought into the urban services district shall be numbered consecutively, commencing with the number following that number which has already been given the last street that has been thus numbered. Of these streets herein referred to, those on the west side of the river shall be called "avenues," and those on the east side of the river shall be called "streets." Such streets and avenues shall be called "North" or "South," according as they are north or south of Main Street on the east side of the river, and according as they are north or south of Broadway and West End.

B. Such streets and avenues shall be marked by erecting posts and signs with the names thereof upon them, of some durable material or enameled steel, and shall be painted a durable color. It shall be unlawful for any per-

son to deface such signs or posts in any particular. (Prior code § 38-2-19)

**13.32.020 Ditch digging—Permit required.**

No person shall make, dig or throw up any ditch, drain, trench, gutter, gully or canal in, through or across any of the streets, lanes or alleys of the urban services district without first obtaining a permit for such purpose from the director of public works, specifying the time when and place where the same is to be done. (Prior code § 38-2-22)

**13.32.030 Repair and maintenance—Owner responsibility—Hold harmless agreement.**

A. It shall be the duty of both the owner and the person in possession of any property that adjoins a street, alley or sidewalk in the urban services district to keep and maintain that portion thereof which immediately adjoins and lies along the margin of such street, alley or sidewalk free from dangerous holes, declivities, excavations, obstructions and other defects that constitute a hazard to persons lawfully and properly using the street, alley or sidewalk. Such owner and such person in possession of such property shall erect such fences, rails or barriers along such street, alley or sidewalk as may be necessary to prevent such excavations, holes, declivities, obstructions and other defects from constituting a hazard to persons lawfully and properly using the street, alley or sidewalk. Such owner and such person in possession of such property shall also upon notice from the director of public works, place and securely fasten red warning lights at and along such street, alley or sidewalk; and keep the same burning during the entire night, and shall keep such lights burning each night until such dangerous condition has ceased to exist.

B. The owner and person in possession of such property adjoining a street, alley or sidewalk shall indemnify and hold harmless the metropolitan government from any and all damages, losses, claims, charges, costs, suits, and actions of every nature and description that may be brought against the metropolitan government as a result of any injury or damage to persons or property sustained by reason of the violation of or failure to comply with this section or any part thereof, and such owner or person in possession of such property shall be liable over to the metropolitan government. The metropolitan government may recover from such owner or person in possession the full amount of its loss and damage, including all court costs, irrespective of whether there was a joint liability and a joint judgment against the metropolitan government and such owner or person in possession of such property. (Prior code § 38-2-7)

**13.32.040 Snow and ice removal—Owner responsibility.**

It shall be the duty of every owner or proprietor of any dwelling house, business house or other house abutting on any public street, square or avenue within the fire district to remove or cause to be removed from the sidewalk immediately in front of his premises all snow and ice which may each day accumulate thereon. (Prior code § 38-2-9)

**13.32.050 Flagpole socket regulations—Contract authorization—Approved locations.**

A. In order to properly decorate the urban services district on patriotic and other special occasions and, in so doing, to display the flag of the United States of America in a respectful manner along the sidewalks or pavements usually included in the line of march, the mayor is hereby authorized to make

an agreement or contract to allow or permit sockets or pipes two inches in diameter, eight inches in length and eight inches back from the curbing, to be implanted or placed in the sidewalk or pavement at intervals of twenty-five feet on either side of the following streets:

1. Along Broadway from the intersection of Sixteenth Avenue to First Avenue;
2. From Broadway along Third Avenue to Deaderick Street;
3. From Third Avenue along Deaderick Street to Fifth Avenue, North;
4. Along Fourth Avenue, North, from Deaderick Street to Broadway;
5. From Fourth Avenue, North, along Church Street to Ninth Avenue, North;
6. From Church Street along Eighth Avenue to Broadway; and also to include
7. Capitol Boulevard;
8. Fifth Avenue and Union Street from Second Avenue to Eighth Avenue;
9. Second Avenue, North, from Broadway to Public Square;
10. Fifth, Sixth and Seventh Avenues from Broadway to Cedar Street;
11. Ninth Avenue, North, from Broadway to Church Street; and
12. The four sides of Public Square.

B. Such pipes or sockets shall be properly implanted or placed in the sidewalks or pavements so as not to be harmful or injurious to the surface of the sidewalks or pavements and to be protected with covers or caps when not in use.

C. On aforementioned patriotic and other special occasions, the mayor may allow or permit wooden poles, one and three-eighths inch in diameter and twelve feet long, to be placed, bearing the national flag, only and during such aforementioned occasions.

D. Such poles and fixtures shall be constructed in such manner as not to interfere with the free use of the sidewalks by pedestrians. (Prior code § 38-2-16)

### **13.32.060 Flagpole socket contract—Cancellation.**

The contract or agreement authorized by Section 13.32.050 shall contain a reservation that same may be canceled by action of the metropolitan council upon six months' written notice at any time after four years from the date of the contract or agreement, without further obligation or liability on the part of the metropolitan government. (Prior code § 38-2-17)

### **13.32.070 Use of flags, poles and fixtures—Requirements.**

A. The mayor and the police department shall have supervision over the use of the flagpoles and fixtures mentioned in Section 13.32.050. The Shenandoah unit system must be displayed only with the twelve-foot poles, and the four-foot by six-foot American flags, and any use other than the Shenandoah unit system on the poles is prohibited.

B. A proclamation shall be issued by the mayor on the days the flags must be used or by order of the police department from the mayor. (Prior code § 38-2-18)

### **13.32.080 Encroachments prohibited—Notice to abate.**

It is unlawful for any person who owns, or, as agent of an owner, is in control of any property in the urban services district, to have, maintain or hereafter cause to be erected, within or upon any street, alley, highway or wharf or any part thereof, any house, fence, wall or building. Any person who has innocently erected such an encroachment shall be entitled to receive written notice of such encroachment from the director of public works and shall be given ten days from the receipt of

such notice in which to remove such encroachment. (Prior code § 38-2-4)

### **13.32.100 Removal of obstructions—Offender's responsibility.**

Should any rocks, wood, lumber or other obstructions whatever be permitted to remain on the public square or any street or alley in the urban services district, it shall be the duty of the members of the police department to request the person so offending to remove such rocks, wood, lumber or other obstructions; and if the same shall not be forthwith removed by such offender, it shall be the duty of such member of the police department to remove the same. In addition to any penalty imposed for the violation of this section, the person offending shall be liable to pay double the expense of removing such rocks, lumber or other obstruction. (Prior code § 38-2-6)

### **13.32.110 Public nuisances prohibited.**

No person shall take, carry, expose or place in or upon any street, alley or sidewalk any substance, animal or thing which is or is likely to become a public nuisance, or which shall imperil the life, health or safety of any person who is or may properly be in or on such street, alley or sidewalk or which, through the giving off of odors or noises, shall be or become offensive, or injuriously affect the comfort and safety of persons using such street, alley or sidewalk. (Prior code § 38-2-21)

### **13.32.120 Barbed wire fences prohibited—Exceptions.**

A. It is unlawful for any person to erect a fence along any sidewalk in the urban services district with barbed wire or razor wire, or a fence of any kind on which barbed wire or razor wire is used; provided, that this section shall not be construed to prevent anyone from stretching a single strand of barbed wire on the top of any fence over seven feet high to prevent anyone from climbing over the same.

B. All fences described in subsection A are also declared to be nuisances and dangerous to the public, and it shall be the duty

of the owner of such fence to remove the same within five days after due notice from the director of public works. (Ord. BL2004-427 § 1, 2004; Prior code § 38-2-15)

### **13.32.130 Dragging timber prohibited.**

It shall be unlawful for any person to cause any log, timber or other heavy article to be dragged on the Public Square or any street in the urban services district. (Prior code § 38-2-13)

### **13.32.140 Dumping fires or burning cinders prohibited.**

It is unlawful to place, make or dump any fire or burning cinders upon any street, alley, public way or square, the surface paving of which may be injured, damaged or deteriorated by reason thereof, except for the purpose of preparing, removing, reconstructing or repairing such paving. (Prior code § 38-2-12)

### **13.32.150 Burning leaves or trash prohibited.**

It is unlawful to burn any leaves, trash, refuse matter or other inflammable material on any sidewalk or pavement or in any street within the urban services district. (Prior code § 38-2-11)

### **13.32.160 Curb service of food or merchandise—Regulations.**

The following rules and regulations with reference to the serving of food or drinks and the sale of other merchandise to passengers in vehicles in or near streets shall be enforced by all police officers and it shall be unlawful for any storekeeper, merchant or purveyor of food, drinks, service or merchandise to violate any of the following regulations:

A. Automobiles shall not encroach on spaces set aside for pedestrian traffic and shall not park so as to interfere with the use of sidewalks or pedestrian traffic.

B. All vehicles, the occupants of which desire service at the curb, shall be parked parallel with the curb, facing the direc-

tion of traffic on the side of the street on which the store is located.

C. Parking shall be permitted only within the property lines of the store at which service is sought, where space is available.

D. Loud or continuous blowing of horns is prohibited.

E. Containers, bottles, straws, tissue napkins or trash shall not be thrown into the street or gutter.

F. Driveways across sidewalks into drive-in stations on private property are permitted, subject to the approval of plans by the director of public works. (Prior code § 38-2-20)

### **13.32.165 Sidewalk cafe dining facilities.**

A. Sidewalk cafe dining facilities are authorized to be located within the public right-of-way in that area of downtown Nashville described in Metropolitan Code Section 10.20.390, subject to the rules and regulations of subsection D. Revisions in said regulations shall require the approval of the director of public works and the approval of the metropolitan council by resolution.

B. Any person who maintains and/or operates any sidewalk cafe dining facility within any public right-of-way without first obtaining a permit from the metropolitan government shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed the amount specified at Section 1.01.030 of the Metropolitan Code, and each day that such violation continues to occur shall be deemed a separate offense.

C. Any person making application for a permit to operate a sidewalk cafe dining facility shall in addition to filing the appropriate application as required by the department of public works, pay to the metropolitan government a nonrefundable fee of one hundred dollars to cover the cost of processing such application.

D. Rules and Regulations.

1. Operation of sidewalk cafe dining facilities shall require a permit from the metropolitan department of public works. Such permits shall be available only for locations in the area of downtown described in Section 10.20.390 of the Metropolitan Code. For the purposes of this section, a "sidewalk cafe din-

ing facility" means an area adjacent to a street level restaurant or equivalent eating or dining establishment, located within the public right of way and used for dining, drinking and related activities. A sidewalk cafe dining facility may provide waiter or waitress services or may be self-service.

2. All permits issued pursuant to this section shall be for a period of one year, renewable annually, and must be posted on the premises. If an applicant is not the owner of the property abutting the affected right-of-way, such application must have written approval by the owner of said property. Both the applicant and the owner of the abutting property, if different from the applicant, are responsible for any damage to the public right-of-way arising out of operation of the sidewalk cafe dining facility, and must immediately restore the right-of-way upon request to the specifications of the director of public works.

3. Each application must be accompanied by a one hundred dollar application fee which shall be nonrefundable. If a renewal is desired, application for renewal must be made at least thirty days prior to the expiration of the existing permit, and each renewal application must be accompanied by a one hundred dollar fee, which shall be nonrefundable.

4. Each application must be accompanied by a plan showing all proposed activities to be conducted upon the public right-of-way and all items proposed to be placed upon said right-of-way. A description of the area proposed to be encumbered must accompany each application. No stakes, rods, support poles or holes for whatever purpose are allowed to be drilled in the public right-of-way. No permanent fixtures are permitted in the public right-of-way.

5. The plan so presented at the time application is sought must include every activity proposed to be conducted upon the public right-of-way. For example, if food service is planned for the sidewalk area, the application must so state. If any entertainment or music is contemplated, the application must disclose this in detail. Anything not specifically included in an application will be considered to be excluded.

6. A minimum of four feet of sidewalk must be left clear for pedestrian traffic (measured from the edge of the encroach-



ment to the curb or to any other obstruction, such as parking meters, signposts, etc.) and placement must not obstruct ingress or egress from vehicles parked at the curb.

7. The area surrounding the sidewalk cafe dining location must be kept completely free of debris, trash or litter of any type. Such cleanup and maintenance shall be the joint responsibility of the applicant and the property owner, if different from the applicant.

8. Sidewalk cafe dining facilities must not obstruct any doorway.

9. The applicant shall hold harmless and indemnify the metropolitan government from any and all liability resulting from personal injury or property damage resulting in any way from the operation of sidewalk cafe facilities, including court costs and attorneys' fees. Proof of insurance in an amount of not less than one million dollars and in a form acceptable to the metropolitan government from a company licensed to do business in the state of Tennessee must be furnished with the application.

10. The sale and consumption of alcoholic beverages other than beer at sidewalk cafe locations is prohibited. The sale and consumption of beer is permitted only if the requirements of all pertinent laws, rules and regulations have been met prior to the filing of any application sought pursuant to these regulations.

11. Food preparation on the public right-of-way is prohibited.

12. Any permit issued pursuant to this section may be immediately canceled or suspended by the director of public works for any reason and at any time. The metropolitan government shall have the right, at any time and for any reason, with or without notice, to remove from the public right-of-way any and all items placed thereon pursuant to any permit issued under this section, and to dispose of same in any manner without liability to the permitholder or to any other party; provided, however, that the director of the department of public works shall use his best efforts to provide at least twenty-four hours notice to any permitholder whose operations will be affected by the provisions of this section. (Ord. 93-593, 1993)

### **13.32.170 Gratings or cellar doors opening onto sidewalks—Restrictions.**

A. It is unlawful to open any grating or cellar door in any sidewalk within the urban services district, unless the grating or door is opened by a person standing on the sidewalk. Such grating or door shall be allowed to remain open only so long as may be absolutely necessary, and while open shall be carefully secured by a railing or barricade.

B. No owner or occupant of a house in the urban services district shall suffer or permit his cellar door on the Public Square or on any street, lane or alley to be or remain open, except when in actual use, or shall have it so insecure as to render walking thereupon or thereover unsafe or dangerous. (Prior code § 38-2-8)

### **13.32.190 Depositing wood, coal or lumber on sidewalks.**

It is unlawful for any person to throw or permit to be thrown, and there to remain for more than one hour, any wood, coal or any kind of lumber on any sidewalk or that part of the street, lane or alley appropriated for sidewalks, except so far as is absolutely unavoidable in cases of building. (Prior code § 38-2-10)

### **13.32.200 Throwing articles from houses into street.**

It is unlawful for any person to throw or cause to be thrown any article of any description out of any house or part of house into any of the streets, lanes or alleys in the urban services district or any part of the public square. (Prior code § 38-2-3)

### **13.32.210 Injuring trees prohibited.**

No person shall wilfully break, pull down, hurt or destroy any tree which is now or may hereafter be planted within the urban services district; provided, that nothing in this section shall be so construed as to prevent the

metropolitan government from removing any tree which it may deem so situated as to obstruct any street or sidewalk, or to prevent any proprietor of a lot from cutting down any tree on or in front of his lot. (Prior code § 38-2-1)

### **13.32.220 Washing vehicles on streets prohibited.**

The washing of vehicles on the streets of the urban services district is prohibited and declared to be a nuisance. (Prior code § 38-2-14)

## **Chapter 13.36**

### **CURB MARKETS**

#### **Sections:**

- 13.36.010 Establishment and boundaries—Auxiliary market.**
- 13.36.020 Use of market restricted to bona fide farmers and growers.**
- 13.36.030 License—Required—Application.**
- 13.36.040 License—No fee.**
- 13.36.050 License—Expiration—Renewal—Revocation.**
- 13.36.060 License—Records kept by collections officer.**
- 13.36.070 Space allotted on first come, first served basis.**
- 13.36.080 License—Not transferable—Duplicate issued when—Counterfeits unlawful.**
- 13.36.090 Custodian's duties.**
- 13.36.100 Hours of operation—Vehicle regulations.**
- 13.36.110 Vehicles of hucksters, peddlers and shoppers prohibited.**

### **13.36.120 Obstruction of middle passageway prohibited.**

### **13.36.130 Unlicensed persons prohibited from selling or displaying goods.**

### **13.36.010 Establishment and boundaries—Auxiliary market.**

A. There is established on that certain tract or parcel of land lying north of the new market house and owned by the metropolitan government a curb market, of the location, area, boundaries, description and layout as follows:

Beginning at a point on the easterly margin of Second Avenue, North, as widened, approximately one hundred thirty-five feet north of the north curblineline of the Public Square; thence extending along the easterly margin of Second Avenue, North, as widened, in a northerly direction, one hundred fifty feet, more or less, to a point on the easterly margin of Second Avenue, North, as widened, and in the southerly line of Haynes' Alley, being Alley No. 26, as widened; thence extending in an easterly direction along the southerly line of Haynes' Alley, being Alley No. 26, as widened, two hundred eighty-six and seven-tenths feet, more or less, to a point on the westerly margin of First Avenue, North; thence extending in a southerly direction along the westerly margin of First Avenue, North, one hundred fifty feet, more or less, to a point on the westerly margin of First Avenue, North, approximately one hundred thirty-five feet north of the north curblineline of the Public Square; thence extending in a westerly direction two hundred eighty-four and five-tenths feet, more or less, along the coping line bounding the new market house area on the north, to the point of beginning.

B. The layout of the area of the curb market as described in subsection A shall

be in accordance with plan No. 565-S on file in the office of the department of public works.

C. There is established on the Public Square, on the north, east and west sides of the Metropolitan Courthouse and Public Building, adjacent and parallel to the curbline, an area or strip of ground twenty-five feet wide to be known as “auxiliary curb market,” more particularly described as follows:

Beginning at the southwest corner of the curb of the public sidewalk surrounding the courthouse and public building; thence west twenty-five feet; thence in a northerly direction approximately two hundred fifteen feet; thence easterly approximately three hundred sixty-four feet; thence in a southerly direction approximately two hundred fifteen feet; thence in a westerly direction twenty-five feet to the point of intersection of the easterly and southerly curbline of the courthouse and public building.

(Prior code § 25-2-1)

### **13.36.020 Use of market restricted to bona fide farmers and growers.**

The privilege of using the curb market or the auxiliary curb market for selling, offering for sale or exposing for sale, vegetables, fruits, berries, nuts, butter, eggs, fresh meats, salt meats, cured meats, sausage, condiments, live poultry, dressed poultry, tobacco and any other product of farm or garden, other than live animals, subject to the laws and regulations of the state, of the federal government, of the metropolitan government and the regulations contained in this chapter, is extended to the bona fide farmers, truck growers, fruit growers and horticulturists who are citizens and residents of the state and who raise and produce the articles they sell, offer for sale or expose for sale in the curb market or the auxiliary curb market; provided, that meat or flesh obtained from animals or fowl may be sold, offered for sale or exposed for sale in the curb market or

the auxiliary curb market by bona fide farmers who are citizens and residents of the state and who have either bred and raised, or owned and grazed or fed the same for a period of at least sixty days next preceding the date of selling, offering for sale or exposing for sale meat or flesh in the curb market or the auxiliary curb market. (Prior code § 25-2-2)

### **13.36.030 License—Required—Application.**

A. Every person who is privileged to occupy and use the curb market or the auxiliary curb market for selling, offering for sale or exposing for sale the articles that may be sold thereon shall, before going upon the curb market or the auxiliary curb market, first make application to the metropolitan collections officer, in writing, upon a form blank to be filled in writing, subscribed and sworn to by the applicant, for a license card or permit, and obtain a license card or permit. Such license card or permit shall be carried by the person to whom issued and shall be exhibited to the assistant market master whenever he requests to see it.

B. No person to whom a license card or permit has not been issued shall be permitted to go upon and occupy any space on the curb market or the auxiliary curb market for the purpose of selling thereon.

C. It is unlawful for any person who does not have in his possession a duly issued license card or permit to occupy space, offer for sale or expose for sale on the curb market the articles that may be sold thereon by a bona fide farmer. (Prior code § 25-2-7)

### **13.36.040 License—No fee.**

No fee shall be charged for the making or filing of an application for a license card or permit or for the issuance of a license card or permit required by this chapter. (Prior code § 25-2-8)

**13.36.050 License—Expiration—Renewal—Revocation.**

A. A license card or permit issued pursuant to this chapter shall expire two years from the date of issuance and shall be renewed by another application and the issuance of a new license card or permit, expiring two years from date of issue.

B. A license card or permit may be revoked and cancelled by the metropolitan collections officer, upon written notice being given to the holder at the mailing address stated in his application and an opportunity of a hearing before the metropolitan collections officer for any misrepresentation or untrue statements made in the application or upon the ground that the holder has ceased to be privileged to sell on the curb market or the auxiliary curb market by reason of removal from the state or by reason of any other fact that would make the holder no longer a member of the class privileged to sell on the curb market or the auxiliary curb market under the provisions of Section 13.36.020 or under the provisions of any ordinance amendatory of this chapter or under the provisions of any new ordinance establishing and regulating the curb market or the auxiliary curb market. (Prior code § 25-2-9)

**13.36.060 License—Records kept by collections officer.**

The metropolitan collections officer shall keep in his office the original applications and a record of all license cards or permits issued by him, showing serial number, date of issue and name of person to whom issued and his mailing address. He shall not issue a license card or permit to any person whose application does not show upon its face that he is one of those to whom the privilege of occupation and use of the curb market or the auxiliary

curb market is extended by the provisions of Section 13.36.020. (Prior code § 25-2-10)

**13.36.070 Space allotted on first come, first served basis.**

A. The making of application for a license card or permit and the issuance of same to any bona fide farmer, truck grower, fruit grower or horticulturist, who is a citizen and resident of this state, shall not entitle the holder to use any particular space on the curb market or the auxiliary curb market and shall not obligate the metropolitan government to furnish space thereon to such holder. The area of the curb market or the auxiliary curb market is limited as set out in this chapter. The regulations in this chapter are designed to prevent the pre-emption of any particular space by any licensee, and to secure sanitary conditions of use and occupation of the curb market or the auxiliary curb market by those to whom the privilege is extended. The principle of first come, first served, be applied in the conduct and operation of the curb market or the auxiliary curb market.

B. The requirements as to application for and issuance of license cards or permits are designed to keep the use of the curb market or the auxiliary curb market for those only to whom the privilege of use has been extended by the provisions of this chapter. (Prior code § 25-2-12)

**13.36.080 License—Not transferable—Duplicate issued when—Counterfeits unlawful.**

A. No holder of a license card or permit shall allow any person, other than a member of his family or an employee in his service, to have or use his license card or permit for the purpose of occupying a space and selling on the curb market or the auxiliary curb market.

B. The metropolitan collections officer, upon affidavit made and filed with him by the holder of a license card or permit that his license card or permit has been lost or destroyed, shall issue to such holder a duplicate of such lost or destroyed license card or permit, with the word "Duplicate" in red ink written upon the face thereof.

C. It is unlawful for any person to make, use, have in his possession or exhibit any false or counterfeit license card or permit. (Prior code § 25-2-11)

### **13.36.090 Custodian's duties.**

The custodian shall:

A. Attend daily, except Sundays, the curb market and the auxiliary curb market from seven-thirty a.m. to eleven-thirty a.m., and two-thirty p.m. to six-thirty p.m.;

B. See that order is maintained in the curb market and the auxiliary curb market;

C. See that the regulations for the curb market and the auxiliary curb market prescribed by this chapter are carried out;

D. See that persons to whom license cards or permits have been issued are admitted to the curb market and the auxiliary curb market in the order in which they arrive, without partiality, favoritism or discrimination;

E. See that persons not privileged under this chapter to occupy space on the curb market or the auxiliary curb market for selling do not occupy space thereon for selling;

F. See that hucksters, peddlers and other persons buying in the curb market or the auxiliary curb market for resale, do not bring into and upon the area of the curb market or the auxiliary curb market or keep thereon any vehicle for the transportation of articles purchased from those privileged to sell on the curb market or the auxiliary curb market after eight a.m.;

G. Adjust and compose, if possible, disagreements between buyers and sellers

on the curb market and the auxiliary curb market over the number, weight, quantity or quality of any article;

H. See that all animals drawing wagons or vehicles coming upon the curb market or the auxiliary curb market are promptly detached and removed from the curb market or the auxiliary curb market and the tongues of the wagons or shafts of the vehicles detached and placed beneath the wagons or vehicles out of the way of pedestrians;

I. See that every seller on the curb market or the auxiliary curb market provides a barrel or other suitable container, appurtenant to his vehicle, for the deposit of trash and refuse arising in the conduct of his business, and that every vehicle and its appurtenant trash and refuse container is removed from the curb market or the auxiliary curb market at the hours prescribed by this chapter;

J. See that the middle passageway in the curb market extending from Second Avenue, North, to First Avenue, North and Haynes' Alley, on which the curb market abuts are kept unobstructed; and

K. See that no person to whom a license card or permit has been issued occupies more space than for one vehicle on the curb market or the auxiliary curb market. (Prior code § 25-2-13)

### **13.36.100 Hours of operation— Vehicle regulations.**

A. The hours during which the curb market may be occupied and used by those to whom the privilege of such use is extended are as follows:

1. Between the hours of three p.m. preceding and eleven a.m. on Tuesdays, Wednesdays, Thursdays and Fridays; and

2. Between the hours of three p.m. preceding and ten p.m. on Saturdays; and

3. Between the hours of twelve midnight preceding and eleven a.m. on Mondays.

B. The auxiliary curb market may be occupied and used by those to whom the privilege of such use is extended from six p.m. preceding to seven-thirty a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of each week.

C. All selling, offering for sale or exposing for sale of any article or articles in the curb market or the auxiliary curb market on Sunday is prohibited.

D. No empty vehicle shall be allowed to occupy any portion of the area of the curb market or the auxiliary curb market for the purpose of preempting a position therein. Nor shall any loaded or partly loaded vehicle be allowed to occupy any portion of the area of the curb market or the auxiliary curb market except within the hours prescribed in subsections A and B for occupation and use thereof by those to whom the privilege is extended. All vehicles shall park in spaces designated by the police department, headed into the curb.

E. All vehicles, together with the trash or refuse barrels or containers appurtenant thereto, shall be removed by their owners or by the persons in charge thereof from the curb market at eleven a.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, and at ten p.m. on Saturdays, and from the auxiliary curb market at eight a.m. each week day.

F. Every person having the privilege of occupation and use of the curb market or the auxiliary curb market under this chapter and having a vehicle of any kind thereon for the purpose of selling, offering for sale or exposing for sale any of the articles which may be sold in the curb market or the auxiliary curb market shall provide himself with a barrel or other suitable container and deposit therein all trash and refuse arising from the conduct of his business. Such barrels or containers and the trash or refuse therein shall be removed by

their owners or the persons in charge, along with the vehicles to which they are appurtenant, when such vehicles are removed from the curb market or the auxiliary curb market.

G. All animals shall be detached from vehicles occupying any portion of the area of the curb market or the auxiliary curb market and shall be removed therefrom. The shafts or tongues of all animal-drawn vehicles shall be removed and placed beneath the vehicle out of the way of pedestrians.

H. No person having the privilege of occupation and use of the curb market or the auxiliary curb market shall occupy any more space thereon than for one vehicle, nor shall he occupy a space thereon except in good faith and for the purpose of making sales therefrom. (Prior code § 25-2-3)

### **13.36.110 Vehicles of hucksters, peddlers and shoppers prohibited.**

It is unlawful for any huckster, peddler or other person buying for resale to bring into and upon the area of the curb market or the auxiliary curb market or keep thereon any vehicle for the transportation of articles purchased from those privileged to sell on the curb market or the auxiliary curb market after eight a.m. (Prior code § 25-2-5)

### **13.36.120 Obstruction of middle passageway prohibited.**

It is unlawful for any person or vehicle to obstruct the middle passageway in the curb market, extending from Second Avenue, North, to First Avenue, North, or Haynes' Alley, on which the curb market abuts. (Prior code § 25-2-6)

### **13.36.130 Unlicensed persons prohibited from selling or displaying goods.**

It is unlawful for any huckster, peddler, operator of a rolling store or any other person than one to whom the privilege is extended under the provisions of Section 13.36.020 to come upon or to take any position upon the area of the curb market or the auxiliary curb market at any time for the purpose of selling, offering for sale or exposing for sale any fruits, vegetables, produce, meats or any other article whatsoever. (Prior code § 25-2-4)

## **Chapter 13.40**

### **PARKING LOTS, DECKS AND GARAGES**

#### **Sections:**

- |                  |  |
|------------------|--|
| <b>13.40.010</b> | <b>Definitions.</b>                              |
| <b>13.40.020</b> | <b>Provisions supplemental to building code.</b> |
| <b>13.40.030</b> | <b>Safeguard requirements.</b>                   |
| <b>13.40.040</b> | <b>Operations—Restrictions.</b>                  |
| <b>13.40.050</b> | <b>Compliance required—Variances.</b>            |
| <b>13.40.060</b> | <b>Enforcement—Appeals.</b>                      |

#### **13.40.010 Definitions.**

For the purposes of this subchapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Basement and underground garages” mean and include garages located below grade and used solely for parking purposes. Motor vehicles may be parked by a garage attendant or by the driver. A basement garage has occupancies above it. An underground garage has no occupancy, other than a garage, above it.

“Car,” “Truck” and “Vehicle.” Such terms are interchangeable, and each includes the other.

“Existing” means in operation as of the effective date of this chapter.

“Parked vehicle” means any vehicle which has been assigned to a specific space in the parking pattern of a particular parking lot, parking deck or garage, and does not apply to a vehicle temporarily stopped on a ramp, aisleway, or in an entrance or exit.

“Parking garages” means garages having exterior enclosing walls, used for the parking of motor vehicles. Parking garages may involve the use of conventional type elevator, attendant operated, mechanical control push button elevators or ramps.

“Parking lots” means lots used for the temporary storage of passenger cars or trucks and having no building other than a waiting room and office space for the attendants at the lot.

“Proposed or new” means any parking facility established after the effective date of this chapter.

“Public parking decks” means open-air parking garages or structures having not less than fifty percent of two sides of the structure open at each story and limited in use only to the temporary parking of motor vehicles.

“Ramps” means passageways used in garages and parking decks to travel from one parking level to another. The term “ramp” does not include the entrances and exits of parking lots, parking decks or garages, and does not include aisleways provided in a parking pattern for ingress and egress to specific parking spaces. (Prior code § 30-2-1)

#### **13.40.020 Provisions supplemental to building code.**

This chapter is intended to be supplemental to, and not in conflict with, the building code. (Prior code § 30-2-6)

#### **13.40.030 Safeguard requirements.**

A. All new and existing parking garages, public parking decks and open-air parking lots shall provide adequate safeguards to prevent automobiles, trucks or vehicles of any type from striking, pushing against, scraping, hitting or touching in any manner, the walls of adjoining buildings and to prevent automobiles, trucks or vehicles of any type from projecting out beyond the property line of the parking lot, garage or parking deck in question onto a public right-of-way, sidewalk or onto private property.

B. Such safeguards, unless otherwise adequately provided for, shall consist of a continuous wheel guard not less than six inches in height above the floor, with clear passage of forty-four inches between the wheel guard and the edge of the structure or property line. Along the outside boundary line of the structure or lot, at any point where vehicles are not parked parallel to the boundary, there shall be erected and maintained an adequate barrier capable of stopping, without damage to the exterior walls or to adjoining buildings, a vehicle weighing five thousand pounds and traveling at a speed of ten miles per hour. This barrier may be in the form of reinforced concrete spandrels or walls built contiguous with the slabs and columns or may be an adequate metal, or equal, guard rails or rails securely anchored to the ground, floors or columns. (Prior code § 30-2-2)

#### **13.40.040 Operations—Restrictions.**

The operation of public parking lots, parking garages, public parking decks, basement and underground garages shall be restricted as follows:

A. Wherever practicable, ramps shall be erected parallel to streets and street walls.

B. Vehicles shall not be backed across sidewalks unless a watchman is posted on the sidewalk at that time.

C. Vehicles shall not be parked on ramps if the ramp grades are greater than one to ten.

D. Cars shall not be operated in excess of ten miles per hour in parking facilities.

E. When parking spaces are arranged so that vehicles are backed into or parked in spaces at right angles to sidewalks or paths of pedestrian travel, adequate barriers to deflect exhaust fumes shall be erected and maintained.

F. Any other item which, in the opinion of the director of the department of codes administration, is reasonably necessary for the safe operation of any parking facility.

G. All public parking lots, parking garages, and other areas used for special event parking for which a parking fee is charged and an attendant is on duty, shall display a sign at the entrance of the parking lot or garage indicating the fee to be charged. The sign indicating the fee to be charged shall be of adequate size and design to be clearly visible and legible to the motoring public. (Ord. BL2004-170 § 1, 2004; prior code § 30-2-3)

#### **13.40.050 Compliance required—Variances.**

A. No parking facilities, parking lots, parking garages, public parking decks, basement or underground garages, shall be operated in violation of this chapter. No parking facilities shall be licensed to operate unless the same have been first inspected and approved by the director of the department of codes administration or his authorized representative.

B. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the application of this chapter and the regulations contained herein would



result in a peculiar and exceptional practical difficulty to or exceptional or undue hardship upon the use of such property as a public parking lot, public parking deck or parking garage, or where the proposed use of such property is temporary in nature pending other development or use of such property by its owner and the strict application of this chapter would prevent the use of such property for parking facilities on a temporary basis by reason of the expense involved, the board of building code appeals shall have the power in a specific case to vary from strict application so as to relieve such difficulties or hardships, provided such relief may be granted without substantial detriment to the comfort, safety, convenience and general welfare of the citizens and purpose of this chapter. (Prior code § 30-2-4)

#### **13.40.060    Enforcement—Appeals.**

The director of the department of codes administration shall enforce the provisions of this chapter. No license shall be issued or renewed for the operation of any parking facility until the same has been approved as complying with the requirements of this chapter. Any person dissatisfied with any ruling of the director in the enforcement of this chapter may appeal therefrom to the board of building code appeals and have a hearing de novo on the matter in issue. (Prior code § 30-2-5)